

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Department of Agriculture and including certain functions transferred from the department to the Department of Public Safety of the State of Texas; the financial responsibilities of valet parking services; and the powers and duties of the Department of Information Resources and the licensing authorities of this state regarding on-line license information; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 1.001. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2015 [~~2003~~].

SECTION 1.002. Subchapter A, Chapter 51, Occupations Code, is amended by adding Section 51.003 to read as follows:

Sec. 51.003. APPLICABILITY. This chapter applies to each regulatory program administered by the department, including any

1 program under which a license is issued by the department.

2 SECTION 1.003. Subsection (a), Section 51.052, Occupations  
3 Code, is amended to read as follows:

4 (a) The commission consists of seven [~~six~~] members  
5 appointed by the governor with the advice and consent of the senate.

6 SECTION 1.004. Subsection (b), Section 51.053, Occupations  
7 Code, is amended to read as follows:

8 (b) A person is not eligible for appointment as a member of  
9 the commission if the person or the person's spouse:

10 (1) is regulated by the department;

11 (2) is employed by or participates in the management  
12 of a business entity or other organization regulated by or  
13 receiving funds from the department;

14 (3) owns or controls, directly or indirectly, more  
15 than a 10 percent interest in a business entity or other  
16 organization regulated by or receiving funds from the department;

17 (4) uses or receives a substantial amount of tangible  
18 goods, services, or funds from the department, other than  
19 compensation or reimbursement authorized by law for commission  
20 membership, attendance, or expenses; or

21 (5) [~~is an officer, employee, or paid consultant of a~~  
22 ~~trade association in a field regulated by the department,~~

23 [~~(6)~~] is an employee of the department[, ~~or~~

24 [~~(7)~~ ~~is required to register as a lobbyist under~~  
25 ~~Chapter 305, Government Code, because of the person's activities~~  
26 ~~for compensation on behalf of a profession related to the operation~~  
27 ~~of the commission or department].~~

1 SECTION 1.005. Subchapter B, Chapter 51, Occupations Code,  
2 is amended by adding Section 51.0535 to read as follows:

3 Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section,  
4 "Texas trade association" means a cooperative and voluntarily  
5 joined statewide association of business or professional  
6 competitors in this state designed to assist its members and its  
7 industry or profession in dealing with mutual business or  
8 professional problems and in promoting their common interest.

9 (b) A person may not be a member of the commission and may  
10 not be a department employee employed in a "bona fide executive,  
11 administrative, or professional capacity," as that phrase is used  
12 for purposes of establishing an exemption to the overtime  
13 provisions of the federal Fair Labor Standards Act of 1938 (29  
14 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

15 (1) the person is an officer, employee, or paid  
16 consultant of a Texas trade association in a field regulated by the  
17 department; or

18 (2) the person's spouse is an officer, manager, or paid  
19 consultant of a Texas trade association in a field regulated by the  
20 department.

21 (c) A person may not be a member of the commission or act as  
22 the general counsel to the commission or the department if the  
23 person is required to register as a lobbyist under Chapter 305,  
24 Government Code, because of the person's activities for  
25 compensation on behalf of a profession related to the operation of  
26 the department.

27 SECTION 1.006. Subchapter B, Chapter 51, Occupations Code,

1 is amended by adding Section 51.054 to read as follows:

2 Sec. 51.054. TRAINING. (a) A person who is appointed to  
3 and qualifies for office as a member of the commission may not vote,  
4 deliberate, or be counted as a member in attendance at a meeting of  
5 the commission until the person completes a training program that  
6 complies with this section.

7 (b) The training program must provide the person with  
8 information regarding:

9 (1) the legislation that created the department and  
10 the commission;

11 (2) the programs operated by the department;

12 (3) the role and functions of the department;

13 (4) the rules of the department, with an emphasis on  
14 the rules that relate to disciplinary and investigatory authority;

15 (5) the current budget for the department;

16 (6) the results of the most recent formal audit of the  
17 department;

18 (7) the requirements of:

19 (A) the open meetings law, Chapter 551,  
20 Government Code;

21 (B) the public information law, Chapter 552,  
22 Government Code;

23 (C) the administrative procedure law, Chapter  
24 2001, Government Code; and

25 (D) other laws relating to public officials,  
26 including conflict-of-interest laws; and

27 (8) any applicable ethics policies adopted by the

1 department or the Texas Ethics Commission.

2 (c) A person appointed to the commission is entitled to  
3 reimbursement, as provided by the General Appropriations Act, for  
4 the travel expenses incurred in attending the training program  
5 regardless of whether the attendance at the program occurs before  
6 or after the person qualifies for office.

7 SECTION 1.007. Subsection (a), Section 51.055, Occupations  
8 Code, is amended to read as follows:

9 (a) Members of the commission serve staggered six-year  
10 terms. The terms of one or two members expire on February 1 of each  
11 odd-numbered year.

12 SECTION 1.008. Subsection (a), Section 51.056, Occupations  
13 Code, is amended to read as follows:

14 (a) The governor shall designate a member of the commission  
15 as the presiding officer of the commission to serve in that capacity  
16 at the pleasure of the governor [~~commission shall elect one of its~~  
17 ~~members as presiding officer. The presiding officer serves in that~~  
18 ~~capacity for a period of two years~~].

19 SECTION 1.009. Subsections (a) and (c), Section 51.057,  
20 Occupations Code, are amended to read as follows:

21 (a) It is a ground for removal from the commission that a  
22 member:

23 (1) does not have at the time of taking office  
24 [~~appointment~~] the qualifications required by Section 51.053 [~~for~~  
25 ~~appointment to the commission~~];

26 (2) does not maintain during service on the commission  
27 the qualifications required by Section 51.053 [~~for appointment to~~

1 ~~the commission]~~;

2 (3) is ineligible for membership under ~~[violates a~~  
3 ~~prohibition established by]~~ Section 51.0535 ~~[51.053]~~; ~~[or]~~

4 (4) cannot, because of illness or disability,  
5 discharge the member's duties for a substantial part of the member's  
6 term; or

7 (5) is absent from more than half of the regularly  
8 scheduled commission meetings that the member is eligible to attend  
9 during a calendar year without an excuse approved ~~[unless the~~  
10 ~~absence is excused]~~ by a majority vote of the commission.

11 (c) If ~~[a commission member or]~~ the executive director has  
12 knowledge that a potential ground for removal exists, the ~~[member~~  
13 ~~or]~~ executive director shall notify the presiding officer of the  
14 commission of the potential ground. The presiding officer shall  
15 then notify the governor and the attorney general that a potential  
16 ground for removal exists. If the potential ground for removal  
17 involves the presiding officer, the executive director shall notify  
18 the next highest ranking officer of the commission, who shall then  
19 notify the governor and the attorney general that a potential  
20 ground for removal exists.

21 SECTION 1.010. Section 51.105, Occupations Code, is amended  
22 to read as follows:

23 Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission  
24 shall develop and implement policies that clearly separate the  
25 policy-making ~~[define the respective]~~ responsibilities of the  
26 commission and the management responsibilities of ~~[7]~~ the executive  
27 director ~~[7]~~ and the staff of the department.

1 SECTION 1.011. Subchapter C, Chapter 51, Occupations Code,  
2 is amended by adding Section 51.106 to read as follows:

3 Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The  
4 executive director or the executive director's designee shall  
5 provide to members of the commission and to department employees,  
6 as often as necessary, information regarding the requirements for  
7 office or employment under this chapter, including information  
8 regarding a person's responsibilities under applicable laws  
9 relating to standards of conduct for state officers or employees.

10 SECTION 1.012. Section 51.108, Occupations Code, is amended  
11 to read as follows:

12 Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The  
13 executive director or the executive director's designee shall  
14 prepare and maintain a written policy statement that implements a  
15 program of [~~to assure implementation of an~~] equal employment  
16 opportunity to ensure that [~~program under which~~] all personnel  
17 decisions [~~transactions~~] are made without regard to race, color,  
18 disability, sex, religion, age, or national origin.

19 (b) The policy statement must include:

20 (1) personnel policies, including policies relating  
21 [~~related~~] to recruitment, evaluation, selection, [~~appointment,~~]  
22 training, and promotion of personnel, that show the intent of the  
23 department to avoid the unlawful employment practices described by  
24 Chapter 21, Labor Code; and

25 (2) an analysis of the extent to which the composition  
26 of the department's personnel is in accordance with state and  
27 federal law and a description of reasonable methods to achieve

1 compliance with state and federal law [~~a comprehensive analysis of~~  
2 ~~the department workforce that meets federal and state guidelines;~~

3 ~~(3) procedures by which a determination can be made~~  
4 ~~of significant underuse in the department workforce of all persons~~  
5 ~~for whom federal or state guidelines encourage a more equitable~~  
6 ~~balance; and~~

7 ~~(4) reasonable methods to appropriately address~~  
8 ~~those areas of significant underuse].~~

9 (c) The [~~(b) A~~] policy statement [~~prepared under~~  
10 ~~Subsection (a)~~] must:

11 (1) [~~cover an annual period,~~] be updated [~~at least~~  
12 ~~annually;~~

13 (2) be reviewed by the state Commission on Human  
14 Rights for compliance with Subsection (b)(1); [~~7~~] and

15 (3) be filed with the governor's office [~~governor~~].

16 SECTION 1.013. Subchapter C, Chapter 51, Occupations Code,  
17 is amended by adding Section 51.109 to read as follows:

18 Sec. 51.109. STATE EMPLOYEE INCENTIVE PROGRAM. The  
19 executive director or the executive director's designee shall  
20 provide to department employees information and training on the  
21 benefits and methods of participation in the state employee  
22 incentive program.

23 SECTION 1.014. Sections 51.203 and 51.204, Occupations  
24 Code, are amended to read as follows:

25 Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY  
26 DEPARTMENT [~~ADOPTED BY EXECUTIVE DIRECTOR~~]. The commission  
27 [~~executive director~~] shall adopt rules as necessary to implement



1 each law establishing a program regulated by the department.

2           Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
3 BIDDING. (a) The commission [~~executive director~~] may not adopt  
4 rules restricting advertising or competitive bidding by a license  
5 holder except to prohibit false, misleading, or deceptive  
6 practices.

7           (b) The commission [~~executive director~~] may not include in  
8 rules to prohibit false, misleading, or deceptive practices by a  
9 license holder a rule that:

- 10                   (1) restricts the use of any advertising medium;  
11                   (2) restricts the license holder's personal appearance  
12 or the use of the license holder's voice in an advertisement;  
13                   (3) relates to the size or duration of an  
14 advertisement; or  
15                   (4) restricts the use of a trade name in advertising.

16           SECTION 1.015. Subchapter D, Chapter 51, Occupations Code,  
17 is amended by adding Sections 51.207 and 51.208 to read as follows:

18           Sec. 51.207. USE OF TECHNOLOGY. The commission shall  
19 develop and implement a policy requiring the executive director and  
20 department employees to research and propose appropriate  
21 technological solutions to improve the department's ability to  
22 perform its functions. The technological solutions must:

23                   (1) ensure that the public is able to easily find  
24 information about the department on the Internet;

25                   (2) ensure that persons who want to use the  
26 department's services are able to:

27                           (A) interact with the department through the

1 Internet; and

2 (B) access any service that can be provided  
3 effectively through the Internet; and

4 (3) be cost-effective and developed through the  
5 department's planning processes.

6 Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
7 RESOLUTION PROCEDURES. (a) The commission shall develop and  
8 implement a policy to encourage the use of:

9 (1) negotiated rulemaking procedures under Chapter  
10 2008, Government Code, for the adoption of department rules; and

11 (2) appropriate alternative dispute resolution  
12 procedures under Chapter 2009, Government Code, to assist in the  
13 resolution of internal and external disputes under the department's  
14 jurisdiction.

15 (b) The department's procedures relating to alternative  
16 dispute resolution must conform, to the extent possible, to any  
17 model guidelines issued by the State Office of Administrative  
18 Hearings for the use of alternative dispute resolution by state  
19 agencies.

20 (c) The commission shall designate a trained person to:

21 (1) coordinate the implementation of the policy  
22 adopted under Subsection (a);

23 (2) serve as a resource for any training needed to  
24 implement the procedures for negotiated rulemaking or alternative  
25 dispute resolution; and

26 (3) collect data concerning the effectiveness of those  
27 procedures, as implemented by the department.

1 SECTION 1.016. Section 51.252, Occupations Code, is amended  
2 to read as follows:

3 Sec. 51.252. COMPLAINTS. (a) The executive director shall  
4 establish methods by which consumers and service recipients are  
5 notified of the name, mailing address, and telephone number of the  
6 department for the purpose of directing complaints to the  
7 department. The department shall provide to the person filing the  
8 complaint and to each person who is a subject of the complaint  
9 information about the department's policies and procedures  
10 relating to complaint investigation and resolution.

11 (b) The department shall maintain a [~~keep an information~~]  
12 file on [~~about~~] each written complaint filed with the department  
13 [~~that the commission or executive director has authority to~~  
14 ~~resolve~~]. The file must include:

15 (1) the name of the person who filed the complaint;

16 (2) the date the complaint is received by the  
17 department;

18 (3) the subject matter of the complaint;

19 (4) the name of each person contacted in relation to  
20 the complaint;

21 (5) a summary of the results of the review or  
22 investigation of the complaint; and

23 (6) an explanation of the reason the file was closed,  
24 if the department closed the file without taking action other than  
25 to investigate the complaint.

26 (c) The [~~If a written complaint is filed that the commission~~  
27 ~~or executive director has authority to resolve, the~~] department, at

1 least quarterly and until final disposition of the complaint, shall  
2 notify the person filing [~~parties to~~] the complaint and each person  
3 who is a subject of the complaint of the status of the investigation  
4 [~~complaint~~] unless the notice would jeopardize an undercover  
5 investigation.

6 (d) The commission shall adopt a procedure for documenting  
7 complaints to the department from the time of the submission of the  
8 initial complaint to the final disposition of the complaint. The  
9 commission shall publish the procedure in the Texas Register.

10 SECTION 1.017. Section 51.302, Occupations Code, is amended  
11 by adding Subsection (c) to read as follows:

12 (c) The commission shall by rule or by procedure published  
13 in the Texas Register establish a written enforcement plan that  
14 provides notice to license holders of the specific ranges of  
15 penalties that apply to specific alleged violations and the  
16 criteria by which the department determines the amount of a  
17 proposed administrative penalty.

18 SECTION 1.018. Section 51.353, Occupations Code, is amended  
19 to read as follows:

20 Sec. 51.353. ADMINISTRATIVE SANCTIONS. (a) The  
21 commission shall revoke, suspend, or refuse to renew a license or  
22 shall reprimand a license holder for a violation of this chapter,  
23 [~~executive director shall adopt rules relating to administrative~~  
24 ~~sanctions that may be enforced against a license holder regulated~~  
25 ~~by the department. If a license holder violates]~~ a law establishing  
26 a regulatory program administered by the department, or a rule or  
27 order of the commission [~~or executive director, the executive~~

1 ~~director may:~~

- 2           ~~[(1) issue a written reprimand to the license holder,~~  
3           ~~[(2) revoke or suspend the license holder's license,~~  
4 ~~or~~  
5           ~~[(3) place the license holder on probation if the~~  
6 ~~person's license has been suspended].~~

7           (b) The commission may place on probation a person whose  
8 license is suspended. If a license suspension is probated, the  
9 commission [~~executive director~~] may require the person [~~license~~  
10 ~~holder~~] to:

11           (1) report regularly to the department on matters that  
12 are the basis of the probation;

13           (2) limit practice to the areas prescribed by the  
14 commission [~~executive director~~]; or

15           (3) continue or renew professional education [~~in those~~  
16 ~~areas that are the basis for the probation~~] until the person  
17 [~~license holder~~] attains a degree of skill satisfactory to the  
18 commission in those areas that are the basis for the probation  
19 [~~executive director~~].

20           SECTION 1.019. Chapter 51, Occupations Code, is amended by  
21 adding Subchapter H to read as follows:

22                           SUBCHAPTER H. LICENSE REQUIREMENTS

23           Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person  
24 who is otherwise eligible to renew a license may renew an unexpired  
25 license by paying the required renewal fee to the department before  
26 the expiration date of the license. A person whose license has  
27 expired may not engage in activities that require a license until

1 the license has been renewed.

2 (b) A person whose license has been expired for 90 days or  
3 less may renew the license by paying to the department a renewal fee  
4 that is equal to 1-1/2 times the normally required renewal fee.

5 (c) A person whose license has been expired for more than 90  
6 days but less than one year may renew the license by paying to the  
7 department a renewal fee that is equal to two times the normally  
8 required renewal fee.

9 (d) A person whose license has been expired for one year or  
10 more may not renew the license. The person may obtain a new license  
11 by complying with the requirements and procedures, including the  
12 examination requirements, for obtaining an original license.

13 (e) A person who was licensed in this state, moved to  
14 another state, and is currently licensed and has been in practice in  
15 the other state for the two years preceding the date of application  
16 may obtain a new license without reexamination. The person must pay  
17 to the department a fee that is equal to two times the normally  
18 required renewal fee for the license.

19 (f) Not later than the 30th day before the date a person's  
20 license is scheduled to expire, the department shall send written  
21 notice of the impending expiration to the person at the person's  
22 last known address according to the records of the department.

23 Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th  
24 day after the date a person takes a license examination, the  
25 department shall notify the person of the results of the  
26 examination.

27 (b) If the examination is graded or reviewed by a testing

1 service:

2 (1) the department shall notify the person of the  
3 results of the examination not later than the 14th day after the  
4 date the department receives the results from the testing service;  
5 and

6 (2) if notice of the examination results will be  
7 delayed for longer than 90 days after the examination date, the  
8 department shall notify the person of the reason for the delay  
9 before the 90th day.

10 (c) The department may require a testing service to notify a  
11 person of the results of the person's examination.

12 (d) If requested in writing by a person who fails a license  
13 examination, the department shall furnish the person with an  
14 analysis of the person's performance on the examination.

15 Sec. 51.403. EXAMINATION FEE REFUND. (a) The department  
16 may refund a license examination fee to a person who is unable to  
17 take the examination if the person:

18 (1) provides reasonable advance notice to the  
19 department; or

20 (2) cannot take the examination because of an  
21 emergency.

22 (b) The commission by rule shall define what constitutes  
23 reasonable notice and an emergency under this section.

24 Sec. 51.404. ENDORSEMENT; RECIPROCITY. (a) The  
25 commission may waive any prerequisite to obtaining a license for an  
26 applicant after reviewing the applicant's credentials and  
27 determining that the applicant holds a license issued by another

1 jurisdiction that has licensing requirements substantially  
2 equivalent to those of this state.

3 (b) The commission may waive any prerequisite to obtaining a  
4 license for an applicant who holds a license issued by another  
5 jurisdiction with which this state has a reciprocity agreement.  
6 The commission may make an agreement, subject to the approval of the  
7 governor, with another state to allow for licensing by reciprocity.

8 Sec. 51.405. CONTINUING EDUCATION. The commission shall  
9 recognize, prepare, or administer continuing education programs  
10 for license holders. A license holder must participate in the  
11 programs to the extent required by the commission to keep the  
12 person's license.

13 SECTION 1.020. Section 51.205, Occupations Code, is  
14 renumbered as Section 51.406, Occupations Code, and amended to read  
15 as follows:

16 Sec. 51.406 [~~51.205~~]. STAGGERED [~~LICENSE EXPIRATION AND~~]  
17 RENEWAL OF LICENSES. [~~(a)~~] The commission by rule [~~executive~~  
18 ~~director~~] may adopt a system under which licenses expire on various  
19 dates during the year. For the year in which the license expiration  
20 date is changed, the department shall prorate license fees on a  
21 monthly basis so that each license holder pays only that portion of  
22 the license fee that is allocable to the number of months during  
23 which the license is valid. On renewal of the license on the new  
24 expiration date, the total license renewal fee is payable [~~annually~~  
25 ~~and may provide for a renewal period that exceeds 12 months.~~

26 [~~(b) The executive director shall notify a person regulated~~  
27 ~~by the department of the impending expiration of the person's~~



1 ~~license]~~.

2 SECTION 1.021. Chapter 51, Occupations Code, is amended by  
3 adding Subchapter I to read as follows:

4 SUBCHAPTER I. TELEPHONE INFORMATION SYSTEM

5 Sec. 51.451. DEFINITION. In this subchapter, "licensing  
6 entity" means a department, commission, board, office, authority,  
7 or other agency or governmental entity of this state that issues an  
8 occupational license.

9 Sec. 51.452. TELEPHONE INFORMATION SYSTEM. The department  
10 shall establish and operate a toll-free telephone information  
11 system to provide assistance and referral services for persons who  
12 inquire about a program regulated by a licensing entity.

13 SECTION 1.022. (a) The changes in law made by this article  
14 in the prohibitions or qualifications applying to members of the  
15 Texas Commission of Licensing and Regulation do not affect the  
16 entitlement of a member serving on the commission immediately  
17 before September 1, 2003, to continue to serve and function as a  
18 member of the commission for the remainder of the member's term.  
19 Those changes in law apply only to a member appointed on or after  
20 September 1, 2003.

21 (b) Not later than November 1, 2003, the governor shall  
22 appoint an additional member to serve on the Texas Commission of  
23 Licensing and Regulation, as required by Subsection (a), Section  
24 51.052, Occupations Code, as amended by this article. The new  
25 member's term shall expire on February 1, 2007.

26 SECTION 1.023. Not later than September 1, 2004, the Texas  
27 Department of Licensing and Regulation shall implement the

1 toll-free telephone information system required by Section 51.452,  
2 Occupations Code, as added by this article.

3 SECTION 1.024. (a) In this section:

4 (1) "Department" means the Texas Department of  
5 Licensing and Regulation.

6 (2) "Licensing entity" means a department,  
7 commission, board, office, authority, or other agency or  
8 governmental entity of this state that issues an occupational  
9 license.

10 (3) "TexasOnline" means the project implemented under  
11 Subchapter I, Chapter 2054, Government Code, as added by Chapter  
12 342, Acts of the 77th Legislature, Regular Session, 2001.

13 (b) Not later than March 1, 2004, the department shall  
14 identify licensing entities that do not use TexasOnline.

15 (c) Not later than September 1, 2004, the department shall  
16 assist those entities to develop websites for, and to convert to,  
17 TexasOnline.

18 (d) Licensing entities shall cooperate with the department  
19 to implement this section.

20 SECTION 1.025. Not later than March 1, 2004, the Texas  
21 Commission of Licensing and Regulation shall adopt the rules  
22 required by Subsection (c), Section 51.302, Occupations Code, as  
23 added by this article.

24 SECTION 1.026. Subsection (c), Section 51.053, Occupations  
25 Code, is repealed.

26 SECTION 1.027. Section 51.252, Occupations Code, as amended  
27 by this article, takes effect January 1, 2004.

1 ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

2 SECTION 2.001. Section 1302.002, Occupations Code, is  
3 amended by amending Subdivision (5) and adding Subdivision (11-a)  
4 to read as follows:

5 (5) "Air conditioning and refrigeration maintenance  
6 work" means all work, including repair work, required for the  
7 continued normal performance of an environmental air conditioning  
8 system, a process cooling or heating system, a commercial  
9 refrigeration system, or commercial refrigeration equipment. The  
10 term does not include:

11 (A) the total replacement of a system; or

12 (B) the installation or repair of a boiler or  
13 pressure vessel that must be installed in accordance with rules  
14 adopted by the commission [~~commissioner~~] under Chapter 755, Health  
15 and Safety Code.

16 (11-a) "Executive director" means the executive  
17 director of the department.

18 SECTION 2.002. The heading to Subchapter C, Chapter 1302,  
19 Occupations Code, is amended to read as follows:

20 SUBCHAPTER C. [~~COMMISSIONER AND DEPARTMENT~~] POWERS AND DUTIES

21 SECTION 2.003. Section 1302.101, Occupations Code, is  
22 amended to conform to Section 2, Chapter 790, Acts of the 77th  
23 Legislature, Regular Session, 2001, and is further amended to read  
24 as follows:

25 Sec. 1302.101. GENERAL POWERS AND DUTIES [~~OF COMMISSIONER~~].

26 (a) The commission [~~commissioner~~] shall[+]

27 [~~(1)~~] adopt rules for the practice of air conditioning

1 and refrigeration contracting that are at least as strict as the  
2 standards provided by:

3 (1) [~~(A)~~] the Uniform Mechanical Code [~~published~~  
4 ~~jointly by the International Conference of Building Officials and~~  
5 ~~the International Association of Plumbing and Mechanical~~  
6 ~~Officials, as that code exists at the time the rules are adopted~~];  
7 and [~~or~~]

8 (2) [~~(B)~~] the International [~~Standard~~] Mechanical  
9 Code.

10 (b) The executive director shall [~~published by the Southern~~  
11 ~~Building Code Congress International, Inc., as that code exists at~~  
12 ~~the time the rules are adopted~~];

13 [~~(2)~~] prescribe the design of an original and a  
14 renewal license.

15 (c) The commission shall [~~and~~

16 [~~(3)~~] maintain a record of the commission's  
17 [~~commissioner's~~] proceedings under this chapter.

18 (d) [~~(b)~~] The executive director [~~commissioner~~] may  
19 authorize disbursements necessary to implement this chapter,  
20 including disbursements for office expenses, equipment costs, and  
21 other necessary facilities.

22 SECTION 2.004. Section 1302.103, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.  
25 The commission [~~commissioner~~], with the advice of the advisory  
26 board, shall adopt rules relating to the use, display, and  
27 advertisement of a license.

1 SECTION 2.005. Section 1302.201, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1302.201. ADVISORY BOARD MEMBERSHIP. The air  
4 conditioning and refrigeration contractors advisory board consists  
5 of six members appointed by the presiding officer of the  
6 commission, with the commission's approval, [~~governor with the~~  
7 ~~advice and consent of the senate~~] and two ex officio nonvoting  
8 members.

9 SECTION 2.006. Subsection (a), Section 1302.204,  
10 Occupations Code, is amended to read as follows:

11 (a) The advisory board shall advise the commission  
12 [~~commissioner~~] in adopting rules and in administering and enforcing  
13 this chapter.

14 SECTION 2.007. Subsection (b), Section 1302.205,  
15 Occupations Code, is amended to read as follows:

16 (b) If a vacancy occurs during an appointed member's term,  
17 the presiding officer of the commission, with the commission's  
18 approval, [~~governor~~] shall fill the vacancy for the remainder of  
19 the unexpired term with a person who represents the same interests  
20 as the predecessor.

21 SECTION 2.008. Section 1302.206, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1302.206. PRESIDING OFFICER. The presiding officer of  
24 the commission, with the commission's approval, [~~governor~~] shall  
25 designate one member of the advisory board to serve as presiding  
26 officer of the board for two years.

27 SECTION 2.009. Section 1302.261, Occupations Code, is

1 amended to read as follows:

2           Sec. 1302.261. TEMPORARY LICENSE.           The commission  
3 [~~commissioner~~] by rule may provide for the issuance of a temporary  
4 air conditioning and refrigeration contracting license to an  
5 applicant who:

6           (1) submits to the executive director [~~commissioner~~]  
7 an application on a form prescribed by the executive director  
8 [~~commissioner~~]; and

9           (2) pays the required fees.

10           SECTION 2.010. Subsection (b), Section 1302.354,  
11 Occupations Code, is amended to read as follows:

12           (b) The commission [~~commissioner~~] by rule shall adopt  
13 requirements governing the registration and issuance of a  
14 certificate of registration.

15           SECTION 2.011. Subsection (c), Section 1302.355,  
16 Occupations Code, is amended to read as follows:

17           (c) The commission [~~commissioner~~] by rule shall establish  
18 requirements for evidence that satisfies this section.

19           SECTION 2.012. The following laws are repealed:

20           (1) Subdivision (8), Section 1302.002, Occupations  
21 Code;

22           (2) Section 1302.107, Occupations Code;

23           (3) Section 1302.152, Occupations Code;

24           (4) Section 1302.258, Occupations Code;

25           (5) Section 1302.259, Occupations Code; and

26           (6) Chapter 790, Acts of the 77th Legislature, Regular  
27 Session, 2001.

1 SECTION 2.013. The changes in law made by this article  
2 applying to members of the air conditioning and refrigeration  
3 contractors advisory board do not affect the entitlement of a  
4 member serving on the board immediately before September 1, 2003,  
5 to continue to serve and function as a member of the board for the  
6 remainder of the member's term. Those changes in law apply only to  
7 a member appointed on or after September 1, 2003.

8 ARTICLE 3. ARCHITECTURAL BARRIERS

9 SECTION 3.001. Section 2, Article 9102, Revised Statutes,  
10 is amended by adding Subsection (h) to read as follows:

11 (h) If any portion of a building described by Subsection  
12 (a)(1) of this section is occupied solely for residential use and  
13 the remaining occupied portion of the building is occupied for  
14 nonresidential use, the executive director shall consider only the  
15 nonresidential portion of the building in determining whether the  
16 building complies with the standards and specifications adopted  
17 under this article.

18 SECTION 3.002. Section 4, Article 9102, Revised Statutes,  
19 is amended by adding Subdivision (6-a) to read as follows:

20 (6-a) "Executive director" means the executive  
21 director of the department.

22 SECTION 3.003. Article 9102, Revised Statutes, is amended  
23 by adding Section 4A to read as follows:

24 Sec. 4A. APPLICABILITY OF OTHER LAW. Section 51.404,  
25 Occupations Code, does not apply to this article.

26 SECTION 3.004. Subsections (c) through (h) and (j), Section  
27 5A, Article 9102, Revised Statutes, are amended to read as follows:

1 (c) An applicant for a certificate of registration must file  
2 with the commission an application on a form prescribed by the  
3 executive director [~~commissioner~~].

4 (d) To be eligible for a certificate of registration, an  
5 applicant must satisfy any requirements adopted by the commission  
6 [~~commissioner~~] by rule, including education and examination  
7 requirements.

8 (e) The executive director [~~commissioner~~] may issue a  
9 certificate of registration to perform review functions of the  
10 commission, inspection functions of the commission, or both review  
11 and inspection functions.

12 (f) The executive director [~~commissioner~~] may administer  
13 separate examinations for applicants for certificates of  
14 registration to perform review functions, inspection functions, or  
15 both review and inspection functions. [~~Not later than the 30th day~~  
16 ~~after the examination date, the commissioner shall notify each~~  
17 ~~examinee of the results of the examination.~~]

18 (g) The executive director [~~commissioner~~] shall issue an  
19 appropriate certificate of registration to an applicant who meets  
20 the requirements for a certificate.

21 (h) The commission [~~commissioner~~] by rule shall specify the  
22 term of a certificate of registration issued under this section.

23 (j) A certificate holder shall perform a review or  
24 inspection function of the commission in a competent and  
25 professional manner and in compliance with:

26 (1) standards and specifications adopted by the  
27 commission under this article; and



1           (2) rules adopted by the commission [~~commissioner~~]  
2 under this article.

3           SECTION 3.005. Section 7, Article 9102, Revised Statutes,  
4 is amended to read as follows:

5           Sec. 7. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES.

6           (a) The presiding officer of the commission, with the commission's  
7 approval, shall appoint an advisory committee for the architectural  
8 barriers program. The committee shall be composed of building  
9 professionals and persons with disabilities who are familiar with  
10 architectural barrier problems and solutions. The committee shall  
11 be composed of at least eight members. Persons with disabilities  
12 must make up a majority of the membership.

13           (b) A committee member serves at the will of the presiding  
14 officer of the commission. A member may not receive compensation  
15 for service on the committee but is entitled to reimbursement for  
16 actual and necessary expenses incurred in performing functions as a  
17 member.

18           (c) The presiding officer of the commission, with the  
19 commission's approval, [~~committee~~] shall appoint [~~elect~~] a member  
20 of the committee as chair for two years. The committee shall meet  
21 at least twice each calendar year at the call of the committee chair  
22 or at the call of the commission [~~commissioner~~].

23           (d) The committee periodically shall review the rules  
24 relating to the architectural barriers program and recommend  
25 changes in the rules to the commission [~~and the commissioner~~]. The  
26 commission shall submit all proposed changes to rules and  
27 procedures that relate to the architectural barriers program to the

1 committee for review and comment before adoption or implementation  
2 of the new or amended rule or procedure.

3 SECTION 3.006. Article 9102, Revised Statutes, is amended  
4 by adding Section 9 to read as follows:

5 Sec. 9. COMPLAINTS. (a) The department shall continue to  
6 monitor a complaint made under Section 51.252, Occupations Code,  
7 that alleges that a building or facility is not in compliance with  
8 the standards and specifications adopted by the commission under  
9 this article until the department determines that:

10 (1) the building or facility has been brought into  
11 compliance; or

12 (2) the building or facility is not required to be  
13 brought into compliance because of a rule or statute, including  
14 Section 2(c) of this article.

15 (b) If the building or facility is not required to be  
16 brought into compliance, the department shall, on final disposition  
17 of the complaint, notify in writing the person filing the complaint  
18 that the building or facility is not required to be brought into  
19 compliance because of a rule or statute and provide a reference to  
20 the rule or statute.

21 (c) The department, at least quarterly and for as long as  
22 the department continues to monitor the complaint under Subsection  
23 (a) of this section, shall notify the person filing the complaint of  
24 the status of the monitoring.

25 SECTION 3.007. The following laws are repealed:

26 (1) Subdivision (3), Section 4, Article 9102, Revised  
27 Statutes; and

1           (2) Subsection (i), Section 5A, Article 9102, Revised  
2 Statutes.

3           SECTION 3.008. The changes in law made by this article  
4 applying to members of the advisory committee for the program for  
5 the elimination of architectural barriers do not affect the  
6 entitlement of a member serving on the committee immediately before  
7 September 1, 2003, to continue to serve and function as a member of  
8 the committee for the remainder of the member's term. Those changes  
9 in law apply only to a member appointed on or after September 1,  
10 2003.

11                           ARTICLE 4. AUCTIONEERS

12           SECTION 4.001. Section 1802.001, Occupations Code, is  
13 amended by adding Subdivision (8-a) to read as follows:

14                   (8-a) "Executive director" means the executive  
15 director of the department.

16           SECTION 4.002. Subsections (a), (b), and (d), Section  
17 1802.059, Occupations Code, are amended to read as follows:

18           (a) An applicant for an auctioneer's license who is not a  
19 resident of this state but is licensed as an auctioneer in another  
20 state must submit to the executive director [~~commissioner~~]:

21                   (1) a license application;

22                   (2) a certified copy of the auctioneer's license  
23 issued to the applicant by the state or political subdivision in  
24 which the applicant resides; and

25                   (3) proof that the state or political subdivision in  
26 which the applicant is licensed has competency standards equivalent  
27 to or stricter than those of this state.

1           (b) The executive director [~~commissioner~~] shall accept the  
2 applicant's auctioneer's license submitted under Subsection (a)(2)  
3 as proof of the applicant's professional competence and waive the  
4 examination and training requirements of Section 1802.052 if the  
5 state or political subdivision that issued the nonresident a  
6 license extends similar recognition and courtesies to this state.

7           (d) A nonresident applicant must submit with the  
8 application a written irrevocable consent to service of process.  
9 The consent must be in the form and supported by additional  
10 information that the commission [~~commissioner~~] by rule requires.  
11 The consent must:

12           (1) provide that an action relating to any transaction  
13 subject to this chapter may be commenced against the license holder  
14 in the proper court of any county of this state in which the cause of  
15 action may arise or in which the plaintiff may reside by service of  
16 process on the executive director [~~commissioner~~] as the license  
17 holder's agent; and

18           (2) include a statement stipulating and agreeing that  
19 service provided by this section is as valid and binding as if  
20 service had been made on the person according to the laws of this or  
21 any other state.

22           SECTION 4.003. Section 1802.101, Occupations Code, is  
23 amended to read as follows:

24           Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The  
25 advisory board shall advise the commission [~~commissioner~~] on  
26 educational matters.

27           SECTION 4.004. Subsections (a) and (b), Section 1802.102,

1 Occupations Code, are amended to read as follows:

2 (a) The advisory board consists of five members appointed as  
3 follows:

4 (1) three members who are licensed auctioneers  
5 appointed by the presiding officer of the commission, with the  
6 commission's approval [~~commissioner~~];

7 (2) the executive director of the Texas Department of  
8 Economic Development or the director's designee; and

9 (3) the commissioner of education or the  
10 commissioner's designee.

11 (b) In appointing advisory board members under Subsection  
12 (a)(1), the presiding officer of the commission [~~commissioner~~] may  
13 not appoint members who reside in contiguous senatorial districts.

14 SECTION 4.005. Subsection (a), Section 1802.103,  
15 Occupations Code, is amended to read as follows:

16 (a) The members appointed under Section 1802.102(a)(1)  
17 serve two-year terms that expire on September 1. If a vacancy  
18 occurs during the term of such a member, the presiding officer of  
19 the commission, with the commission's approval, [~~commissioner~~]  
20 shall appoint a replacement to serve for the remainder of the term.

21 SECTION 4.006. Section 1802.104, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1802.104. PRESIDING OFFICER. The presiding officer of  
24 the commission, with the commission's approval, shall appoint a  
25 member of the advisory board to serve [~~shall designate one of its~~  
26 ~~members~~] as presiding officer of the board. The presiding officer  
27 serves for two years.

1 SECTION 4.007. Section 1802.109, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The  
4 advisory board shall:

5 (1) evaluate educational programs, seminars, and  
6 training projects; and

7 (2) make recommendations to the commission  
8 [~~commissioner~~] on their usefulness and merit as continuing  
9 education tools.

10 (b) On the recommendation of the advisory board, the  
11 commission [~~commissioner~~] may fund or underwrite specific classes,  
12 seminars, or events for the education and advancement of the  
13 auctioneering profession in this state.

14 SECTION 4.008. Subsection (a), Section 1802.153,  
15 Occupations Code, is amended to read as follows:

16 (a) In addition to any other fees required by this chapter,  
17 an applicant entitled to receive a license under this chapter must  
18 pay a fee [~~of \$100~~] before the executive director [~~commissioner~~]  
19 issues the license.

20 SECTION 4.009. Section 1802.201, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive  
23 director [~~commissioner~~] may, on the executive director's  
24 [~~commissioner's~~] motion, and shall, on the written [~~and verified~~]  
25 complaint of a person aggrieved by the actions of an auctioneer in  
26 an auction, investigate an alleged violation of this chapter by a  
27 licensed or unlicensed auctioneer or an applicant.

1           SECTION 4.010. Subsections (a) and (b), Section 1802.202,  
2 Occupations Code, are amended to read as follows:

3           (a) A person who deals with an auctioneer licensed under  
4 this chapter and who is aggrieved by an action of the auctioneer as  
5 a result of a violation of a contract made with the auctioneer may  
6 initiate a claim against the fund by[+]

7                 [~~(1)~~] filing with the department a [~~sworn~~] complaint  
8 against the auctioneer[ ~~and~~

9                 [~~(2) paying to the department a filing fee of \$50~~].

10           (b) The executive director [~~commissioner~~] may not pay a  
11 claim against an auctioneer who was not licensed at the time of the  
12 transaction on which the claim is based.

13           SECTION 4.011. Subsection (c), Section 1802.203,  
14 Occupations Code, is amended to read as follows:

15           (c) After the hearing, the hearings examiner shall prepare a  
16 proposal for decision for the commission [~~commissioner~~].

17           SECTION 4.012. Section 1802.204, Occupations Code, is  
18 amended to read as follows:

19           Sec. 1802.204. APPEAL. A party may appeal a decision of the  
20 commission [~~commissioner~~] in the manner provided for a contested  
21 case under Chapter 2001, Government Code.

22           SECTION 4.013. Section 1802.207, Occupations Code, is  
23 amended to read as follows:

24           Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the  
25 executive director [~~commissioner~~] pays a claim against an  
26 auctioneer, the auctioneer shall:

27                 (1) reimburse the fund immediately or agree in writing

1 to reimburse the fund on a schedule to be determined by rule of the  
2 commission [~~commissioner~~]; and

3 (2) immediately pay the aggrieved party any amount due  
4 to that party or agree in writing to pay the party on a schedule to  
5 be determined by rule of the commission [~~commissioner~~].

6 (b) Payments made by an auctioneer to the fund or to an  
7 aggrieved party under this section include interest accruing at the  
8 rate of eight percent a year beginning on the date the executive  
9 director [~~commissioner~~] pays the claim.

10 SECTION 4.014. Subsection (a), Section 1802.209,  
11 Occupations Code, is amended to read as follows:

12 (a) This subchapter and Section 1802.252 do not limit the  
13 commission's [~~commissioner's~~] authority to take disciplinary  
14 action against a license holder for a violation of this chapter or a  
15 rule adopted under this chapter.

16 SECTION 4.015. Section 1802.251, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR  
19 REVOCATION OF LICENSE. The commission [~~commissioner~~] may deny an  
20 application for a license or suspend or revoke the license of any  
21 auctioneer for:

22 (1) violating this chapter or a rule adopted under  
23 this chapter;

24 (2) obtaining a license through false or fraudulent  
25 representation;

26 (3) making a substantial misrepresentation in an  
27 application for an auctioneer's license;



1           (4) engaging in a continued and flagrant course of  
2 misrepresentation or making false promises through an agent,  
3 advertising, or otherwise;

4           (5) failing to account for or remit, within a  
5 reasonable time, money belonging to another that is in the  
6 auctioneer's possession and commingling funds of another with the  
7 auctioneer's funds or failing to keep the funds of another in an  
8 escrow or trust account; or

9           (6) ~~[being convicted in a court of this state or~~  
10 ~~another state of a criminal offense involving moral turpitude or a~~  
11 ~~felony; or~~

12           ~~[(7)]~~ violating the Business & Commerce Code in  
13 conducting an auction.

14           SECTION 4.016. Section 1802.252, Occupations Code, is  
15 amended to read as follows:

16           Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The  
17 commission ~~[commissioner]~~ may revoke a license issued under this  
18 chapter if the executive director ~~[commissioner]~~ makes a payment  
19 from the fund as the result of an action of the license holder.

20           (b) The commission ~~[commissioner]~~ may probate an order  
21 revoking a license.

22           (c) An auctioneer is not eligible for a new license until  
23 the auctioneer has repaid in full the amount paid from the fund on  
24 the auctioneer's account, including interest, unless:

25           (1) a hearing is held; and

26           (2) the executive director ~~[commissioner]~~ issues a new  
27 probated license.

1 SECTION 4.017. Section 1802.253, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1802.253. HEARING. (a) Before denying an application  
4 for a license [~~or suspending or revoking a license~~], the commission  
5 [~~commissioner~~] shall:

- 6 (1) set the matter for a hearing; and  
7 (2) before the [~~30th day before the~~] hearing date,  
8 notify the applicant [~~or license holder~~] in writing of:

9 (A) the charges alleged or the question to be  
10 determined at the hearing; and

11 (B) the date and location of the hearing.

12 (b) At a hearing under this section, the applicant [~~or~~  
13 ~~license holder~~] may:

14 (1) be present and be heard in person or by counsel;  
15 and

16 (2) have an opportunity to offer evidence by oral  
17 testimony, affidavit, or deposition.

18 (c) Written notice may be served by personal delivery to the  
19 applicant [~~or license holder~~] or by certified mail to the last known  
20 mailing address of the applicant [~~or license holder~~].

21 (d) If the applicant [~~or license holder~~] who is the subject  
22 of the hearing is an associate auctioneer, the commission  
23 [~~commissioner~~] shall provide written notice to the auctioneer who  
24 employs the associate auctioneer or who has agreed to employ the  
25 associate auctioneer by mailing the notice by certified mail to the  
26 auctioneer's last known mailing address.

27 SECTION 4.018. Subsection (a), Section 1802.303,

1 Occupations Code, is amended to read as follows:

2 (a) A person commits an offense if the person violates a  
3 provision of this chapter or a rule adopted by the commission  
4 [~~commissioner~~] under this chapter for which a penalty is not  
5 provided.

6 SECTION 4.019. The following laws are repealed:

7 (1) Subdivision (7), Section 1802.001, Occupations  
8 Code;

9 (2) Section 1802.057, Occupations Code;

10 (3) Section 1802.061, Occupations Code; and

11 (4) Section 1802.254, Occupations Code.

12 SECTION 4.020. The changes in law made by this article  
13 applying to members of the Auctioneer Education Advisory Board do  
14 not affect the entitlement of a member serving on the board  
15 immediately before September 1, 2003, to continue to serve and  
16 function as a member of the board for the remainder of the member's  
17 term. Those changes in law apply only to a member appointed on or  
18 after September 1, 2003.

19 ARTICLE 5. BOILERS

20 SECTION 5.001. Section 755.001, Health and Safety Code, is  
21 amended by amending Subdivisions (5), (6), and (23) and adding  
22 Subdivision (7-a) to read as follows:

23 (5) "Certificate of operation" means a certificate  
24 issued by the executive director [~~commissioner~~] to allow the  
25 operation of a boiler.

26 (6) "Commission" [~~"Commissioner"~~] means the Texas  
27 Commission of Licensing and Regulation [~~commissioner of licensing~~]

1 ~~and regulation~~].

2           (7-a) "Executive director" means the executive  
3 director of the department.

4           (23) "Standard boiler" means a boiler that bears a  
5 Texas stamp, the stamp of a nationally recognized engineering  
6 professional society, or the stamp of any jurisdiction that has  
7 adopted a standard of construction equivalent to the standard  
8 required by the executive director [~~commissioner~~].

9           SECTION 5.002. Subsections (b) and (d), Section 755.011,  
10 Health and Safety Code, are amended to read as follows:

11           (b) The board is composed of the following nine members  
12 appointed by the presiding officer of the commission, with the  
13 commission's approval [~~commissioner~~]:

14           (1) three members representing persons who own or use  
15 boilers in this state;

16           (2) three members representing companies that insure  
17 boilers in this state;

18           (3) one member representing boiler manufacturers or  
19 installers;

20           (4) one member who is a mechanical engineer and a  
21 member of the faculty of a recognized college of engineering in this  
22 state; and

23           (5) one member representing a labor union.

24           (d) The executive director [~~commissioner~~] serves as an ex  
25 officio board member.

26           SECTION 5.003. Section 755.013, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 755.013. PRESIDING OFFICER [~~CHAIRMAN~~]. The chief  
2 inspector serves as presiding officer [~~chairman~~] of the board.

3           SECTION 5.004. Section 755.014, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY. (a) The  
6 commission [~~commissioner~~] may remove a board member for  
7 inefficiency or neglect of official duty.

8           (b) A board member's office becomes vacant on the  
9 resignation, death, suspension, or incapacity of the member. The  
10 presiding officer of the commission [~~commissioner~~] shall appoint,  
11 in the same manner as the original appointment, a person to serve  
12 for the remainder of the unexpired term.

13           SECTION 5.005. Section 755.016, Health and Safety Code, is  
14 amended to read as follows:

15           Sec. 755.016. MEETINGS. The board shall meet at least twice  
16 each year at the call of the presiding officer [~~chairman~~] at a place  
17 designated by the board.

18           SECTION 5.006. Section 755.017, Health and Safety Code, is  
19 amended to read as follows:

20           Sec. 755.017. POWERS AND DUTIES. The board shall advise the  
21 commission [~~commissioner~~] in the adoption of definitions and rules  
22 relating to the safe construction, installation, inspection,  
23 operating limits, alteration, and repair of boilers and their  
24 appurtenances.

25           SECTION 5.007. Subsection (a), Section 755.030, Health and  
26 Safety Code, is amended to read as follows:

27           (a) In addition to the fees described by Section 51.202,

1 Occupations Code, the commission may authorize the collection of  
2 fees for:

3 (1) boiler inspections, including fees for special  
4 inspections; and

5 (2) other activities administered by the boiler  
6 inspection section and authorized by rule of the commission  
7 [~~executive director of the department~~].

8 SECTION 5.008. Section 755.032, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 755.032. RULES. (a) The commission [~~commissioner~~]  
11 may adopt and enforce rules, in accordance with standard boiler  
12 usage, for the construction, inspection, installation, use,  
13 maintenance, repair, alteration, and operation of boilers.

14 (b) The executive director [~~commissioner~~] may exchange  
15 information, including data on experience, with other authorities  
16 that inspect boilers or their appurtenances, to obtain information  
17 necessary to adopt rules.

18 (c) The executive director [~~commissioner~~] or a department  
19 employee may not prescribe the make, brand, or kind of boilers or  
20 any appurtenances on the boiler to purchase.

21 (d) The executive director [~~commissioner~~] or a department  
22 employee may not prescribe the make, brand, or kind of boilers to  
23 purchase.

24 SECTION 5.009. Section 755.033, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS. (a) The  
27 executive director [~~commissioner~~] shall enter into interagency

1 agreements with the Texas Department of Health, the Texas  
2 Commission on Fire Protection, and the Texas Department [~~State~~  
3 ~~Board~~] of Insurance under which inspectors, marshals, or  
4 investigators from those agencies who discover unsafe or  
5 unregistered boilers in the course and scope of inspections  
6 conducted as part of regulatory or safety programs administered by  
7 those agencies are required to report the unsafe or unregistered  
8 boilers to the executive director [~~commissioner~~].

9 (b) The executive director [~~commissioner~~] may enter into  
10 analogous agreements with local fire marshals.

11 (c) The commission [~~commissioner~~] shall adopt rules  
12 relating to the terms and conditions of an interagency agreement  
13 entered into under this section.

14 SECTION 5.010. Subsections (b) and (d), Section 755.041,  
15 Health and Safety Code, are amended to read as follows:

16 (b) On written request, an owner or operator who does not  
17 comply with a preliminary order is entitled to a hearing before the  
18 executive director [~~commissioner~~] to show cause for not enforcing  
19 the preliminary order. If, after the hearing, the executive  
20 director [~~commissioner~~] determines that the boiler is unsafe and  
21 that the preliminary order should be enforced, or that other acts  
22 are necessary to make the boiler safe, the executive director  
23 [~~commissioner~~] may order or confirm the withholding of the  
24 certificate of operation for that boiler, and may impose additional  
25 requirements as necessary for the repair or alteration of the  
26 boiler or the correction of the unsafe conditions.

27 (d) This section does not limit the executive director's

1 ~~[commissioner's]~~ authority under Section 755.028 or the  
2 commission's authority under Section 755.032.

3 SECTION 5.011. Subsection (a), Section 755.043, Health and  
4 Safety Code, is amended to read as follows:

5 (a) A person, firm, or corporation commits an offense if:

6 (1) the person, firm, or corporation owns a boiler in  
7 this state, has the custody, management, use, or operation of a  
8 boiler in this state, or is otherwise subject to this chapter or a  
9 rule adopted under this chapter; and

10 (2) the person, firm, or corporation violates this  
11 chapter, a rule adopted under this chapter, or an order issued by  
12 the commission, the executive director, ~~[commissioner]~~ or a  
13 regularly employed inspector authorized to enforce this chapter and  
14 rules and orders.

15 SECTION 5.012. Section 755.045, Health and Safety Code, is  
16 amended to read as follows:

17 Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE  
18 PROSECUTION. A criminal action may not be maintained against any  
19 person relating to the violation of a rule adopted or an order  
20 issued under this chapter until the commission ~~[commissioner]~~ gives  
21 notice of the rule or order.

22 SECTION 5.013. Section 755.046, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 755.046. AFFIDAVIT OF ORDERS. An affidavit is  
25 admissible as evidence in any civil or criminal action involving an  
26 order adopted by the commission or the executive director  
27 ~~[commissioner]~~ and the publication of the order, without further



1 proof of the order's issuance or publication or of the contents of  
2 the order, if the affidavit:

3 (1) is issued under the seal of the commission or the  
4 executive director [~~commissioner~~];

5 (2) is executed by the commission, the executive  
6 director [~~commissioner~~], the chief inspector, or a deputy  
7 inspector;

8 (3) states the terms of the order;

9 (4) states that the order was issued and published;  
10 and

11 (5) states that the order was in effect during the  
12 period specified by the affidavit.

13 SECTION 5.014. The following laws are repealed:

14 (1) Subsections (c), (d), (e), and (h), Section  
15 755.024, Health and Safety Code; and

16 (2) Section 755.031, Health and Safety Code.

17 SECTION 5.015. The changes in law made by this article  
18 applying to members of the board of boiler rules do not affect the  
19 entitlement of a member serving on the board immediately before  
20 September 1, 2003, to continue to serve and function as a member of  
21 the board for the remainder of the member's term. Those changes in  
22 law apply only to a member appointed on or after September 1, 2003.

23 ARTICLE 6. CAREER COUNSELING SERVICES

24 SECTION 6.001. Section 2502.001, Occupations Code, is  
25 amended by amending Subdivision (3) and adding Subdivision (4-a) to  
26 read as follows:

27 (3) "Commission" [~~"Commissioner"~~] means the Texas

1 Commission of Licensing and Regulation [~~commissioner of licensing~~  
2 ~~and regulation~~].

3 (4-a) "Executive director" means the executive  
4 director of the department.

5 SECTION 6.002. Section 2502.056, Occupations Code, is  
6 amended to read as follows:

7 Sec. 2502.056. RULES. The commission [~~commissioner~~] may  
8 adopt rules relating to the administration and enforcement of the  
9 certificate of authority program created under this subchapter.

10 SECTION 6.003. Subchapter B, Chapter 2502, Occupations  
11 Code, is amended by adding Section 2502.058 to read as follows:

12 Sec. 2502.058. APPLICABILITY OF OTHER LAW. Section 51.404  
13 does not apply to this chapter.

14 SECTION 6.004. Subsection (b), Section 2502.202,  
15 Occupations Code, is amended to read as follows:

16 (b) Not later than 10 days [~~48 hours~~] after a career  
17 counseling service receives a written complaint, the service shall  
18 respond to the complaint. Not later than the 30th [~~10th~~] day after  
19 the date the complaint is received, the service shall resolve the  
20 complaint.

21 SECTION 6.005. Subsection (a), Section 2502.203,  
22 Occupations Code, is amended to read as follows:

23 (a) If a career counseling service cannot resolve a  
24 complaint within the period described by Section 2502.202, the  
25 service shall:

26 (1) refer the complaint to a qualified independent  
27 arbitration organization recognized by the department; and

1 (2) resolve the complaint not later than the 60th  
2 [~~30th~~] day after the date the arbitration begins [~~complaint is~~  
3 ~~referred for arbitration~~].

4 SECTION 6.006. Section 2502.252, Occupations Code, is  
5 amended to read as follows:

6 Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person  
7 [~~by sworn affidavit~~] may file with the executive director  
8 [~~commissioner~~] a complaint alleging a violation of this chapter.

9 (b) On receipt of the complaint, the executive director  
10 [~~commissioner~~] shall investigate the alleged violation and may:

11 (1) inspect any record relevant to the complaint; and

12 (2) subpoena the record and any necessary witness.

13 SECTION 6.007. Subsections (a) and (c), Section 2502.253,  
14 Occupations Code, are amended to read as follows:

15 (a) If the executive director [~~commissioner~~] determines as  
16 a result of an investigation that a violation of this chapter may  
17 have occurred, the executive director [~~commissioner~~] shall hold a  
18 hearing [~~not later than the 45th day after the date the complaint~~  
19 ~~was filed under Section 2502.252~~].

20 (c) The executive director [~~commissioner~~] shall render a  
21 decision on the alleged violation [~~not later than the eighth day~~]  
22 after [~~the date~~] the hearing is concluded.

23 SECTION 6.008. Section 2502.254, Occupations Code, is  
24 amended to read as follows:

25 Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the  
26 commission [~~commissioner~~] determines that a career counseling  
27 service has violated this chapter, the commission [~~commissioner~~]

1 may, as appropriate:

2 (1) issue a warning to the service; or

3 (2) suspend or revoke the certificate of authority  
4 issued to the service.

5 (b) If, after a hearing, the commission [~~commissioner~~]  
6 determines that a career counseling service has violated this  
7 chapter, the executive director [~~commissioner~~] may award the  
8 complainant an amount equal to the amount of the fee charged by the  
9 service.

10 SECTION 6.009. Section 2502.255, Occupations Code, is  
11 amended to read as follows:

12 Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION.  
13 If the commission [~~commissioner~~] revokes the certificate of  
14 authority of a career counseling service under Section 2502.254,  
15 the service and any owner of that service may not apply for a new  
16 certificate until after the third anniversary of the date the  
17 certificate was revoked.

18 SECTION 6.010. Sections 2502.057 and 2502.101, Occupations  
19 Code, are repealed.

20 ARTICLE 7. COMBATIVE SPORTS

21 SECTION 7.001. Section 2052.002, Occupations Code, is  
22 amended by amending Subdivisions (4) and (6) and adding  
23 Subdivisions (8-a), (13-a), and (15-a) to read as follows:

24 (4) "Commission" [~~"Commissioner"~~] means the Texas  
25 Commission of Licensing and Regulation [~~commissioner of licensing~~  
26 ~~and regulation or the commissioner's designated representative~~].

27 (6) "Elimination tournament" means a boxing contest in

1 which elimination tournament contestants compete in a series of  
2 matches until not more than one contestant remains in any weight  
3 category. The term does not include a boxing event described by  
4 Section 2052.110.

5 (8-a) "Executive director" means the executive  
6 director of the department.

7 (13-a) "Promoter" means a boxing promoter or wrestling  
8 promoter.

9 (15-a) "Ringside physician" means an individual  
10 licensed to practice medicine in this state who is registered with  
11 the department.

12 SECTION 7.002. Subchapter A, Chapter 2052, Occupations  
13 Code, is amended by adding Section 2052.003 to read as follows:

14 Sec. 2052.003. APPLICABILITY OF OTHER LAW. Section 51.401  
15 does not apply to this chapter.

16 SECTION 7.003. The heading to Subchapter B, Chapter 2052,  
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER B. POWERS AND DUTIES [~~OF DEPARTMENT AND COMMISSIONER~~]

19 SECTION 7.004. Section 2052.052, Occupations Code, is  
20 amended to read as follows:

21 Sec. 2052.052. RULES. (a) The commission [~~commissioner~~]  
22 shall adopt reasonable and necessary rules to administer this  
23 chapter.

24 (b) The commission [~~commissioner~~] may adopt rules:

25 (1) governing professional kickboxing contests and  
26 exhibitions; [~~and~~]

27 (2) establishing reasonable qualifications for an

1 applicant seeking a license from the department under this chapter;

2 (3) recognizing a sanction, medical suspension, or  
3 disqualification of a license holder by a combative sports  
4 authority in any state, provided that if licensure is denied based  
5 on those actions, an applicant has a right to a hearing as  
6 prescribed by rule;

7 (4) establishing practice requirements or specialty  
8 certifications that a person licensed to practice medicine in this  
9 state must meet to register as a ringside physician;

10 (5) requiring a contestant to present to the executive  
11 director at the time of weigh-in an original copy of recent blood  
12 test results that demonstrate whether the contestant is free from  
13 hepatitis B virus, hepatitis C virus, human immunodeficiency virus,  
14 and any other communicable disease designated by commission rule  
15 and providing that a contestant's failure to provide the required  
16 blood test results disqualifies the contestant;

17 (6) providing that to participate in any event a  
18 contestant must be free of hepatitis B virus, hepatitis C virus,  
19 human immunodeficiency virus, and any other communicable disease  
20 designated by rule;

21 (7) requiring that a contestant undergo a physical  
22 examination, including an ophthalmological examination, at or near  
23 the time of weigh-in and providing for disqualification of a  
24 contestant who is determined by an examining physician to be unfit;  
25 and

26 (8) establishing additional responsibilities for  
27 promoters.

1 SECTION 7.005. Section 2052.054, Occupations Code, is  
2 amended by amending Subsection (a) and adding Subsection (c) to  
3 read as follows:

4 (a) The commission [~~commissioner~~] may recognize, prepare,  
5 or administer continuing education programs for persons licensed  
6 under this chapter.

7 (c) Section 51.405 does not apply to this chapter.

8 SECTION 7.006. Subchapter B, Chapter 2052, Occupations  
9 Code, is amended by adding Section 2052.055 to read as follows:

10 Sec. 2052.055. MEDICAL ADVISORY COMMITTEE. (a) The  
11 presiding officer of the commission, with the commission's  
12 approval, may appoint a medical advisory committee to advise the  
13 department concerning health issues for boxing event contestants.

14 (b) If the commission elects to appoint an advisory  
15 committee, the commission by rule shall establish:

16 (1) the number of committee members;

17 (2) qualifications for appointment to the committee;

18 and

19 (3) the purpose and duties of the committee.

20 SECTION 7.007. Section 2052.103, Occupations Code, is  
21 amended to read as follows:

22 Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER  
23 LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an  
24 elimination tournament boxing promoter's license under this  
25 chapter must apply on a form furnished by the executive director  
26 [~~commissioner~~].

27 (b) An application must be accompanied by an application fee

1 ~~[of not more than \$1,000]~~ and, if the applicant charges a fee for  
2 admission to the elimination tournament or awards a trophy, prize,  
3 including a prize of money, or other item of value of more than \$50  
4 to a contestant winning the elimination tournament:

5 (1) a \$50,000 surety bond subject to approval by the  
6 executive director ~~[commissioner]~~ and conditioned on the  
7 applicant's payment of:

8 (A) the tax imposed under Section 2052.151; and

9 (B) a claim against the applicant as described by  
10 Section 2052.109(a)(3); and

11 (2) proof of not less than \$10,000 accidental death or  
12 injury insurance coverage for each contestant participating in the  
13 elimination tournament.

14 SECTION 7.008. Section 2052.107, Occupations Code, is  
15 amended to read as follows:

16 Sec. 2052.107. OTHER BOXING LICENSES. Unless a person  
17 holds a license or registration issued under this chapter, the  
18 person may not act as a:

19 (1) professional boxer;

20 (2) manager of a professional boxer;

21 (3) referee;

22 (4) judge;

23 (5) second;

24 (6) timekeeper; ~~[or]~~

25 (7) matchmaker; or

26 (8) ringside physician.

27 SECTION 7.009. Section 2052.110, Occupations Code, is



1 amended to read as follows:

2           Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS.       The  
3 licensing and bonding requirements of this subchapter do not apply  
4 to:

5           (1) a boxing event in which the participants do not  
6 receive a money remuneration, purse, or prize for their  
7 performances or services if the event is promoted, conducted, or  
8 maintained by:

9                       (A) an educational institution;

10                      (B) a law enforcement organization;

11                      (C) a Texas National Guard Unit; or

12                      (D) an amateur athletic organization recognized  
13 by the executive director [~~commissioner~~];

14           (2) an event conducted by a nonprofit amateur athletic  
15 association chartered under the law of this state, including a  
16 membership club affiliated with the association located within this  
17 state and recognized by the executive director [~~commissioner~~];

18           (3) an event conducted by a college, school, or  
19 university that is part of the institution's athletic program in  
20 which only students of different educational institutions  
21 participate; [~~or~~]

22           (4) an event in which only members of a troop, battery,  
23 company, or unit of the Texas National Guard or a law enforcement  
24 agency participate; or

25           (5) an event conducted by an organization of the  
26 Olympic Games, the Paralympic Games, or the Pan-American Games.

27           SECTION 7.010. Subchapter C, Chapter 2052, Occupations

1 Code, is amended by adding Sections 2052.114 and 2052.115 to read as  
2 follows:

3 Sec. 2052.114. LICENSE, REGISTRATION, AND PERMIT TERM AND  
4 RENEWAL. (a) A license, registration, or permit issued under this  
5 chapter is valid for one year after the date of issuance.

6 (b) The holder of a license, registration, or permit may  
7 renew the license, registration, or permit by paying a renewal fee  
8 and complying with other renewal requirements prescribed by  
9 department rule before the expiration date. The department shall  
10 issue a renewal certificate to the holder at the time of renewal.

11 Sec. 2052.115. PROMOTER RESPONSIBILITIES. For each  
12 promoted event, a promoter shall:

13 (1) assure that all contestants scheduled to  
14 participate are licensed before the event;

15 (2) provide that an ambulance, serviced by at least  
16 two emergency medical technicians, is present on the premises where  
17 the event is held;

18 (3) provide for a physical examination of each  
19 contestant that complies with rules adopted under this chapter; and

20 (4) comply with all commission rules.

21 SECTION 7.011. Subsection (a), Section 2052.151,  
22 Occupations Code, is amended to read as follows:

23 (a) A tax is imposed on a person who:

24 (1) conducts a boxing event, including an elimination  
25 tournament, in which a fee is charged for admission to the event;

26 (2) exhibits in this state a simultaneous telecast of  
27 a live, spontaneous, or current boxing event on a closed circuit

1 telecast, in which a fee is charged for admission to the telecast;  
2 or

3 (3) conducts or sponsors an amateur boxing event,  
4 other than an event exempt from licensing under Section  
5 2052.110(2), (3), ~~or~~ (4), or (5), in which a fee is charged for  
6 admission to the event.

7 SECTION 7.012. Subsection (a), Section 2052.152,  
8 Occupations Code, is amended to read as follows:

9 (a) A person on whom a tax is imposed under Section  
10 2052.151, not later than 72 hours after the end of the event or  
11 telecast for which the tax is due, shall submit to the department a  
12 verified report on a form furnished by the department stating:

- 13 (1) the number of tickets sold to the event;  
14 (2) the ticket prices charged; ~~and~~  
15 (3) the gross price charged for the sale or lease of  
16 broadcasting, television, and motion picture rights without any  
17 deductions for commissions, brokerage fees, distribution fees,  
18 advertising, or other expenses or charges; and  
19 (4) the amount of gross receipts obtained from the  
20 event.

21 SECTION 7.013. Subsection (b), Section 2052.201,  
22 Occupations Code, is amended to read as follows:

23 (b) An elimination tournament match consists of three  
24 ~~[one-minute]~~ rounds of not more than 90 seconds per round with an  
25 interval of at least one minute between rounds.

26 SECTION 7.014. Section 2052.202, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2052.202. CONTESTANT PARTICIPATION; REGISTRATION.

2           (a) An elimination tournament contestant must register with the  
3 department for a tournament not later than the 30th day before the  
4 date of the tournament. The department shall prescribe the  
5 registration form.

6           **(b) An elimination tournament contestant** may not  
7 participate in more than ~~[+~~

8                   ~~[(1)] one match a [during the first] night [of a~~  
9 ~~two-night elimination tournament other than a championship~~  
10 ~~tournament; or~~

11                   ~~[(2) two matches during the first night of a two-night~~  
12 ~~championship tournament.~~

13           ~~[(b) An elimination tournament contestant may participate~~  
14 ~~in any number of matches during the second night of a two-night~~  
15 ~~elimination tournament].~~

16           (c) ~~[Except as provided by Subsection (d), an elimination~~  
17 ~~tournament boxing promoter may permit an elimination tournament~~  
18 ~~contestant who does not win a match during the first night of a~~  
19 ~~two-night elimination tournament to participate in the tournament~~  
20 ~~during the second night of the tournament.~~

21           ~~[(d)]~~ An elimination tournament contestant who  fights and  
22  loses a match ~~[is knocked out during the tournament]~~ may not  
23 ~~[continue to]~~ participate in another ~~[the]~~ tournament in this state  
24 for at least 90 days after the date of the loss.

25           SECTION 7.015. Section 2052.251, Occupations Code, is  
26 amended to read as follows:

27           Sec. 2052.251. BOXING GLOVES. A boxing event contestant,

1 other than an elimination tournament contestant under Subchapter E,  
2 shall wear eight-ounce boxing gloves, unless the commission  
3 [~~commissioner~~] by rule requires or permits a contestant to wear  
4 heavier gloves.

5 SECTION 7.016. Subsections (a), (b), and (e), Section  
6 2052.252, Occupations Code, are amended to read as follows:

7 (a) This section applies to an amateur boxing event, other  
8 than an event described by Section 2052.110(2), (3), (4), or (5) or  
9 an elimination tournament subject to Subchapter E, in which a fee is  
10 charged for admission to the event.

11 (b) The event may take place only if the executive director  
12 [~~commissioner~~] approves the event not later than seven days before  
13 the date the event begins.

14 (e) The event is subject to the supervision of the executive  
15 director [~~commissioner~~].

16 SECTION 7.017. Subchapter G, Chapter 2052, is amended by  
17 adding Section 2052.3015 to read as follows:

18 Sec. 2052.3015. PROMOTER PENALTY FOR LATE LICENSE. A  
19 promoter who does not comply with Section 2052.115(1) in a timely  
20 manner is subject to a penalty under this chapter for each  
21 contestant who obtains a license less than 72 hours before an event  
22 in which the contestant is scheduled to participate.

23 SECTION 7.018. Section 2052.302, Occupations Code, is  
24 amended to read as follows:

25 Sec. 2052.302. WITHHOLDING OF PURSE AND FORFEITURE OF  
26 PURSE. (a) The executive director [~~commissioner~~] may order a  
27 promoter [~~boxer or manager~~] to withhold any [~~forfeit to this state~~

1 a] purse or other funds payable to the holder of a license or  
2 registration under this chapter if it appears more likely than not  
3 that the holder has violated [~~in an amount of not more than \$1,000~~  
4 ~~for violating~~] this chapter or a rule adopted under this chapter.

5 (b) The promoter shall surrender any purse or funds withheld  
6 as provided by Subsection (a) to the executive director on demand.  
7 Not later than the fifth working day after the event, the department  
8 shall notify in writing the promoter and any person from whom a sum  
9 was withheld of the date of a hearing to determine whether all or  
10 part of the purse or funds withheld should be forfeited to the  
11 state. The hearing must be scheduled for a date not later than the  
12 10th day after the date of the notice. Not later than the 10th day  
13 after the date of the hearing, the executive director shall enter an  
14 order with findings of fact and conclusions of law determining  
15 whether all or part of the purse or funds should be forfeited. Any  
16 funds not forfeited shall be distributed to the persons entitled to  
17 the funds.

18 (c) Except as otherwise provided by this subchapter, a  
19 proceeding under this section shall be conducted in the manner  
20 provided by Chapter 2001, Government Code.

21 (d) A person aggrieved by an order entered under this  
22 section may appeal the order by filing a petition in a district  
23 court in Travis County in the manner provided by Chapter 2001,  
24 Government Code.

25 SECTION 7.019. Subsections (a) and (b), Section 2052.304,  
26 Occupations Code, are amended to read as follows:

27 (a) A person may seek review of a decision or an order of the

1 executive director or the commission [~~commissioner~~] under this  
2 chapter by filing a petition for review in a district court in  
3 Travis County [~~not later than the 30th day after the date on which~~  
4 ~~the decision or order of the commissioner is final if the person is:~~

5 ~~(1) a party to an administrative hearing in which the~~  
6 ~~decision or order is issued; and~~

7 ~~(2) aggrieved by the decision or order].~~

8 (b) Chapter 2001, Government Code, governs any proceeding  
9 under this section. [~~The filing of a petition for review under~~  
10 ~~Subsection (a) does not stay the effect of the decision or order of~~  
11 ~~the commissioner that is the subject of the petition. The~~  
12 ~~commissioner or the district court in which the petition for review~~  
13 ~~is filed may order a stay on appropriate terms.]~~

14 SECTION 7.020. The following laws are repealed:

- 15 (1) Section 2052.104, Occupations Code;  
16 (2) Section 2052.112, Occupations Code;  
17 (3) Section 2052.154, Occupations Code;  
18 (4) Section 2052.301, Occupations Code;  
19 (5) Subsection (c), Section 2052.304, Occupations  
20 Code;  
21 (6) Section 2052.305, Occupations Code;  
22 (7) Section 2052.306, Occupations Code; and  
23 (8) Section 2052.307, Occupations Code.

24 SECTION 7.021. Section 2052.302, Occupations Code, as  
25 amended by this article, applies to a forfeiture imposed on or after  
26 the effective date of this article. A forfeiture imposed before  
27 that date is governed by the law in effect on the date the

1 forfeiture was ordered, and the former law is continued in effect  
2 for that purpose.

3 SECTION 7.022. This article takes effect January 1, 2004.

4 ARTICLE 8. COURT INTERPRETERS

5 SECTION 8.001. Section 57.041, Government Code, is amended  
6 by adding Subdivision (4-a) to read as follows:

7 (4-a) "Executive director" means the executive  
8 director of the department.

9 SECTION 8.002. Subsections (a), (c), (e), and (g), Section  
10 57.042, Government Code, are amended to read as follows:

11 (a) The licensed court interpreter advisory board is  
12 established as an advisory board to the commission [~~department~~].  
13 The board is composed of nine members appointed by the presiding  
14 officer of the commission, with the commission's approval  
15 [~~governor~~]. Members of the board serve staggered six-year terms,  
16 with the terms of one-third of the members expiring on February 1 of  
17 each odd-numbered year.

18 (c) The presiding officer of the commission, with the  
19 commission's approval, [At the initial meeting of the board and at  
20 the first meeting after new members take office, the board] shall  
21 select from the board [~~its~~] members a presiding officer of the board  
22 to serve for two years.

23 (e) The presiding officer of the commission, with the  
24 commission's approval, [commissioner] may remove a member of the  
25 board for inefficiency or neglect of duty in office. If a vacancy  
26 occurs on the board, the presiding officer of the commission, with  
27 the commission's approval, [governor] shall appoint a member who



1 represents the same interests as the former member to serve the  
2 unexpired term.

3 (g) The board shall advise the commission [~~commissioner~~]  
4 regarding the adoption of rules and the design of a licensing  
5 examination.

6 SECTION 8.003. Subsections (a) and (b), Section 57.043,  
7 Government Code, are amended to read as follows:

8 (a) The executive director [~~commissioner~~] shall issue a  
9 court interpreter license to an applicant who:

10 (1) can interpret for an individual who can hear but  
11 who does not comprehend English or communicate in English;

12 (2) passes the appropriate examination prescribed by  
13 the executive director [~~commissioner~~]; and

14 (3) possesses the other qualifications for the license  
15 required by this subchapter or by rules adopted under this  
16 subchapter.

17 (b) The commission [~~commissioner~~] shall[+]

18 [~~(1)~~] adopt rules relating to licensing under this  
19 subchapter[+] and the executive director shall

20 [~~(2)~~] prescribe all forms required under this  
21 subchapter.

22 SECTION 8.004. Section 57.048, Government Code, is amended  
23 to read as follows:

24 Sec. 57.048. SUSPENSION AND REVOCATION OF LICENSES;  
25 REISSUANCE. (a) After a hearing, the commission [~~commissioner~~]  
26 shall suspend or revoke a court interpreter license on a finding  
27 that the individual:

1           (1) made a material misstatement in an application for  
2 a license;

3           (2) [~~wilfully~~] disregarded or violated this  
4 subchapter or a rule adopted under this subchapter; or

5           (3) [~~has been convicted of a felony or of any crime in~~  
6 ~~which an essential element of the offense is misstatement, fraud,~~  
7 ~~or dishonesty; or~~

8           [~~(4)~~] engaged in dishonorable or unethical conduct  
9 likely to deceive, defraud, or harm the public or a person for whom  
10 the interpreter interprets.

11           (b) The executive director [~~commissioner~~] may reissue a  
12 license to an individual whose license has been revoked if the  
13 individual applies in writing to the department and shows good  
14 cause to justify reissuance of the license.

15           SECTION 8.005. Subdivision (3), Section 57.041, Government  
16 Code, is repealed.

17           SECTION 8.006. The changes in law made by this article  
18 applying to members of the licensed court interpreter advisory  
19 board do not affect the entitlement of a member serving on the board  
20 immediately before September 1, 2003, to continue to serve and  
21 function as a member of the board for the remainder of the member's  
22 term. Those changes in law apply only to a member appointed on or  
23 after September 1, 2003.

24           ARTICLE 9. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

25           SECTION 9.001. Subchapter B, Chapter 754, Health and Safety  
26 Code, is amended to read as follows:

1 SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

2 Sec. 754.011. DEFINITIONS. In this subchapter:

3 (1) "Acceptance inspection" means an inspection  
4 performed at the completion of the initial installation or  
5 alteration of equipment and in accordance with the applicable ASME  
6 Code A17.1.

7 (2) "Accident" means an event involving equipment that  
8 results in death or serious bodily injury to a person.

9 (3) "Alteration" means a change in or modernization of  
10 existing equipment. The term does not include maintenance, repair,  
11 replacement, or a cosmetic change that does not affect the  
12 operational safety of the equipment or diminish the safety of the  
13 equipment below the level required by the ASME Code A17.1, ASME Code  
14 A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time  
15 of alteration.

16 (4) "Annual inspection" means an inspection of  
17 equipment performed in a 12-month period in accordance with the  
18 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or  
19 ASCE Code 21. The term includes an acceptance inspection performed  
20 within that period.

21 (5) "ASCE Code 21" means the American Society of Civil  
22 Engineers Code 21 for people movers operated by cables.

23 (6) "ASME Code A17.1" means the American Society of  
24 Mechanical Engineers Safety Code for Elevators and Escalators  
25 A17.1.

26 (6-a) "Executive director" means the executive  
27 director of the department.

1            (7) [~~(2)~~] "ASME Code A17.3" means the 2002 American  
2 Society of Mechanical Engineers Safety Code for Elevators and  
3 Escalators A17.3.

4            (8) "ASME Code A18.1" means the American Society of  
5 Mechanical Engineers Safety Code for Platform Lifts and Stairway  
6 Chairlifts A18.1.

7            (9) [~~(3)~~] "Board" means the elevator advisory board.

8            (10) [~~(4)~~] "Commission" means the Texas Commission of  
9 Licensing and Regulation.

10           (11) [~~(5)~~] "Commissioner" means the commissioner of  
11 licensing and regulation.

12           (12) "Contractor" means a person engaged in the  
13 installation, repair, or maintenance of equipment. The term does  
14 not include an employee of a contractor or a person engaged in  
15 cleaning or any other work performed on equipment that does not  
16 affect the operational safety of the equipment or diminish the  
17 safety of the equipment below the level required by the ASME Code  
18 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as  
19 applicable.

20           (13) [~~(6)~~] "Department" means the Texas Department of  
21 Licensing and Regulation.

22           (14) "Equipment" means an elevator, escalator,  
23 chairlift, platform lift, automated people mover operated by  
24 cables, or moving sidewalk, or related equipment.

25           (15) "Industrial facility" means a facility to which  
26 access is primarily limited to employees or contractors working in  
27 that facility.

1           (16) [~~(7)~~] "Qualified historic building or facility"  
2 means a building or facility that is:

3           (A) listed in or eligible for listing in the  
4 National Register of Historic Places; or

5           (B) designated as a Recorded Texas Historic  
6 Landmark or State Archeological Landmark.

7           (17) [~~(8)~~] "Related equipment" means:

8           (A) automatic equipment that is used to move a  
9 person in a manner that is similar to that of an elevator, an [~~or~~]  
10 escalator, a chairlift, a platform lift, an automated people mover  
11 operated by cables, or [~~and includes~~] a moving sidewalk; and

12           (B) hoistways, pits, and machine rooms for  
13 equipment.

14           (18) "Serious bodily injury" means a major impairment  
15 to bodily function or serious dysfunction of any bodily organ or  
16 part requiring medical attention.

17           (19) "Unit of equipment" means one elevator,  
18 escalator, chairlift, platform lift, automated people mover  
19 operated by cables, or moving sidewalk, or related equipment.

20           Sec. 754.0111. EXEMPTION. (a) This subchapter does not  
21 apply to [~~an elevator, escalator, or related~~] equipment in a  
22 private building for a labor union, trade association, private  
23 club, or charitable organization that has two or fewer floors.

24           (b) This subchapter does not apply to an elevator located in  
25 a single-family dwelling, except as provided by Section 754.0141.

26           Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator  
27 advisory board is composed of nine members appointed by the

1 presiding officer of the commission, with the commission's  
2 approval, [commissioner] as follows:

3 (1) a representative of the insurance industry or a  
4 certified elevator inspector;

5 (2) a representative of [~~elevator, escalator, and~~  
6 ~~related~~] equipment constructors;

7 (3) a representative of owners or managers of a  
8 building [~~buildings~~] having fewer than six stories and having [~~an~~  
9 ~~elevator, an escalator, or related~~] equipment;

10 (4) a representative of owners or managers of a  
11 building [~~buildings~~] having six stories or more and having [~~an~~  
12 ~~elevator, an escalator, or related~~] equipment;

13 (5) a representative of independent [~~elevator,~~  
14 ~~escalator, and related~~] equipment maintenance companies;

15 (6) a representative of [~~elevator, escalator, and~~  
16 ~~related~~] equipment manufacturers;

17 (7) a licensed or registered engineer or architect  
18 [~~representative of professional engineers or architects~~];

19 (8) a public member; and

20 (9) a public member with a physical disability.

21 (b) Board members serve at the will of the commission  
22 [~~commissioner~~].

23 (c) The presiding officer of the commission, with the  
24 commission's approval, [commissioner] shall appoint a presiding  
25 officer of the board to serve for two years.

26 (d) The board shall meet at least twice each calendar year.

27 (e) A board member serves without compensation but is

1 entitled to reimbursement for travel as provided for in the General  
2 Appropriations Act [~~and other necessary expenses incurred in~~  
3 ~~performing duties under this subchapter~~].

4       Sec. 754.013. BOARD DUTIES. To protect public safety and to  
5 identify and correct potential hazards, the board shall advise the  
6 commission [~~commissioner~~] on:

7           (1) the adoption of appropriate standards for the  
8 installation, alteration, operation, and inspection of [~~elevators,~~  
9 ~~escalators, and related~~] equipment;

10          (2) the status of [~~elevators, escalators, and related~~]  
11 equipment used by the public in this state; [~~and~~]

12          (3) sources of information relating to equipment  
13 safety;

14          (4) public awareness programs related to elevator  
15 safety, including programs for sellers and buyers of single-family  
16 dwelling with elevators, chairlifts, or platform lifts; and

17          (5) any other matter considered relevant by the  
18 commission [~~commissioner~~].

19       Sec. 754.014. STANDARDS       ADOPTED       BY       COMMISSION  
20 [~~COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall adopt  
21 standards for the installation, maintenance, alteration,  
22 operation, and inspection of [~~elevators, escalators, and related~~]  
23 equipment used by the public in:

24           (1) buildings owned or operated by the state, a  
25 state-owned institution or agency, or a political subdivision of  
26 the state; and

27           (2) buildings that contain [~~an elevator, an escalator,~~

1 ~~or related~~] equipment that is open to the general public, including  
2 a hotel, motel, apartment house, boardinghouse, church, office  
3 building, shopping center, or other commercial establishment.

4 (b) Standards adopted by the commission [~~commissioner~~] may  
5 not contain requirements in addition to the requirements in the  
6 ASME Code A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code  
7 21. The standards must allow alteration of existing equipment if  
8 the alteration does not diminish the safety of the equipment below  
9 the level required by this subchapter at the time of alteration.

10 (c) Standards adopted by the commission [~~commissioner~~] must  
11 require [~~elevators, escalators, and related~~] equipment to comply  
12 with the installation requirements of the [~~following, whichever is~~  
13 ~~the least restrictive.~~

14 [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE  
15 Code 21 that was in effect and applicable on the date of  
16 installation of the [~~elevators, escalators, and related~~]  
17 equipment[~~, or~~

18 [~~(2) an applicable municipal ordinance governing the~~  
19 ~~installation of elevators, escalators, and related equipment that~~  
20 ~~was in effect on the date of installation].~~

21 (d) Standards adopted by the commission [~~commissioner~~] must  
22 require [~~elevators, escalators, and related~~] equipment to comply  
23 with the installation requirements of the [~~1994~~] ASME Code A17.3  
24 that contains minimum safety standards for all [~~elevators,~~  
25 ~~escalators, and related~~] equipment, regardless of the date of  
26 installation.

27 (e) The executive director [~~On written request, the~~



1 ~~commissioner~~] shall grant a delay for compliance with the  
2 applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME  
3 Code A18.1 until a specified time if compliance is not readily  
4 achievable, as that phrase is defined in the Americans with  
5 Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations  
6 adopted under that Act. The accumulated total time of all delays  
7 may not exceed three years, except as provided by Subsection (f) or  
8 as allowed in the discretion of the executive director.

9 (f) The executive director ~~[On written request, the~~  
10 ~~commissioner]~~ shall grant a delay until September 1, 2005, for  
11 compliance with the requirements for door restrictors or  
12 firefighter's service in the ~~[1994]~~ ASME Code A17.3 if those  
13 requirements were not included in the ASME Code A17.1 that was in  
14 effect on the date of installation ~~[of the elevator, escalator, or~~  
15 ~~related equipment]~~ and the ~~[that]~~ equipment was not subsequently  
16 installed ~~[by an owner of the elevator, escalator, or related~~  
17 ~~equipment]~~.

18 (g) The executive director ~~[commissioner]~~ may grant a  
19 waiver of compliance from an applicable code requirement ~~[with the~~  
20 ~~applicable ASME Code A17.1 or the 1994 ASME Code A17.3]~~ if the  
21 executive director ~~[commissioner]~~ finds that:

22 (1) the building in which the ~~[elevator, escalator, or~~  
23 ~~related]~~ equipment is located is a qualified historic building or  
24 facility or the noncompliance is due to structural components of  
25 the building; ~~[and]~~

26 (2) noncompliance will not constitute a significant  
27 threat to passenger safety; and

1           (3) noncompliance, with adequate alternative  
2 safeguards, will not constitute a significant threat to worker  
3 safety.

4           (h) The executive director shall grant a waiver of  
5 compliance if the noncompliance resulted from compliance with a  
6 municipal equipment construction code at the time of the original  
7 installation and the noncompliance does not pose imminent and  
8 significant danger. The executive director [~~commissioner~~] may  
9 grant a waiver of compliance with the firefighter's service  
10 provisions of the ASME Code A17.1 or the [~~1994~~] ASME Code A17.3 in  
11 an elevator that exclusively serves a vehicle parking garage in a  
12 building that:

- 13           (1) is used only for parking;  
14           (2) is constructed of noncombustible materials; and  
15           (3) is not greater than 75 feet in height.

16           (i) This subchapter does not apply to [~~an elevator, an~~  
17 ~~escalator, or related~~] equipment in an industrial facility, or in a  
18 grain silo, radio antenna, bridge tower, underground facility, or  
19 dam, to which access is limited primarily [~~principally~~] to  
20 employees of or working in that facility or structure.

21           (j) [~~The commissioner may charge a reasonable fee as set by~~  
22 ~~the commission for an application for waiver or delay.~~] One  
23 application for a waiver or delay may contain all requests related  
24 to a unit of equipment [~~particular building~~]. A delay may not be  
25 granted indefinitely but must be granted for [~~to~~] a specified time  
26 not to exceed three years.

27           (k) For purposes of this section, the date of installation

1 or alteration of equipment is the date that the owner of the real  
2 property entered into a contract for the installation or alteration  
3 of the [~~purchase of the elevators, escalators, or related~~]  
4 equipment. If that date cannot be established, the date of  
5 installation or alteration is the date of issuance of the municipal  
6 building permit under which the [~~elevators, escalators, or related~~]  
7 equipment was installed or altered [~~constructed~~] or, if a municipal  
8 building permit was not issued, the date that electrical  
9 consumption began for the construction of the building in which the  
10 [~~elevators, escalators, or related~~] equipment was installed.

11 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY  
12 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or  
13 platform lifts installed in a single-family dwelling on or after  
14 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as  
15 applicable, and must be inspected by a QEI-1 certified inspector  
16 after the installation is complete. The inspector shall provide  
17 the dwelling owner a copy of the inspection report.

18 (b) The commission shall, before January 1, 2004, adopt  
19 rules containing minimum safety standards that must be used by  
20 QEI-1 certified inspectors when inspecting elevators, chairlifts,  
21 and platform lifts installed in single-family dwellings.

22 (c) A municipality may withhold a certificate of occupancy  
23 for a dwelling or for the installation of the elevator or chairlift  
24 until the owner provides a copy of the QEI-1 inspection report to  
25 the municipality.

26 (d) A contractor is not required to report to the department  
27 any information concerning equipment in a single-family dwelling or

1 the contractor's work on the equipment.

2 (e) On completing installation of equipment in a  
3 single-family dwelling, a contractor shall provide the dwelling  
4 owner with relevant information, in writing, about use, safety, and  
5 maintenance of the equipment, including the advisability of having  
6 the equipment periodically and timely inspected by a QEI-1  
7 certified inspector.

8 (f) An inspection by a QEI-1 certified inspector of  
9 equipment in a single-family dwelling may be performed only at the  
10 request and with the consent of the owner. The owner of a  
11 single-family dwelling is not subject to Section 754.022, 754.023,  
12 or 754.024.

13 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by  
14 rule shall provide for:

15 (1) an annual [~~the~~] inspection and certification of  
16 the [~~once each calendar year of elevators, escalators, and related~~]  
17 equipment covered by standards adopted under this subchapter;

18 (2) [~~the~~] enforcement of those standards;

19 (3) registration [~~the certification~~] of qualified  
20 [~~persons as~~] inspectors and contractors [~~for the purposes of this~~  
21 ~~subchapter~~]; [~~and~~]

22 (4) the form of [~~the~~] inspection documents, contractor  
23 reports, [~~report~~] and certificates [~~certificate~~] of compliance;

24 (5) notification to building owners, architects, and  
25 other building industry professionals regarding the necessity of  
26 annually inspecting equipment;

27 (6) approval of continuing education programs for

1 registered QEI-1 certified inspectors; and

2 (7) standards of conduct for individuals who are  
3 registered under this subchapter.

4 (b) The commission [~~commissioner~~] by rule may not [~~require~~  
5 ~~that~~]:

6 (1) require inspections of equipment to [~~inspection~~]  
7 be made more often than every 12 months, except as provided by  
8 Subsection (c) [~~once per year of elevators, escalators, and related~~  
9 ~~equipment~~];

10 (2) require persons to post a bond or furnish  
11 insurance or to have minimum experience or education as a condition  
12 of certification or registration; [~~and~~]

13 (3) require building owners to submit to the  
14 department proposed plans for equipment installation or  
15 alteration; or

16 (4) prohibit a QEI-1 certified inspector who is  
17 registered with the department from inspecting equipment.

18 (c) The commission by rule may require a reinspection or  
19 recertification of equipment if the equipment has been altered and  
20 poses a significant threat to passenger or worker safety or if an  
21 annual inspection report indicates an existing violation has  
22 continued longer than permitted in a delay granted by the executive  
23 director.

24 (d) The executive director may charge a reasonable fee as  
25 set by the commission for:

26 (1) registering or renewing registration of an  
27 inspector;

1           (2) registering or renewing registration of a  
2 contractor;

3           (3) applying for a certificate of compliance;

4           (4) filing an inspection report as required by Section  
5 754.019(a)(3), 30 days or more after the date the report is due, for  
6 each day the report remains not filed after the date the report is  
7 due;

8           (5) applying for a waiver or delay; and

9           (6) attending a continuing education program  
10 sponsored by the department for registered QEI-1 inspectors  
11 [inspection reports or certificates of compliance be placed in  
12 locations other than one provided in Section 754.019(4)].

13           Sec. 754.016.   INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES  
14 [~~CERTIFICATE~~] OF COMPLIANCE.   (a) Inspection reports [~~An~~  
15 ~~inspection report~~] and certificates [~~a certificate~~] of compliance  
16 required under this subchapter must cover all [~~elevators,~~  
17 ~~escalators, and related~~] equipment in a building or structure  
18 appurtenant to the building, including a parking facility, that are  
19 owned by the same person or persons.   [~~There shall be only one~~  
20 ~~inspection report and one certificate of compliance for each~~  
21 ~~building.~~]

22           (b) An inspector shall date and sign an inspection report  
23 and shall issue the report to the building owner not later than the  
24 10th calendar day after the date of inspection.   [~~The inspection~~  
25 ~~report shall be on forms designated by the commissioner.~~]

26           (c) The executive director [~~commissioner~~] shall date and  
27 sign a certificate of compliance and shall issue the certificate to

1 the building owner. The certificate of compliance shall state:

2 (1) that the [elevators, escalators, and related]  
3 equipment has [have] been inspected by a certified inspector and  
4 found by the inspector to be in compliance, except for any delays or  
5 waivers granted by the executive director [commissioner] and stated  
6 in the certificate;

7 (2) the date of the last inspection and the due date  
8 for the next inspection; and

9 (3) contact information at the department to report a  
10 violation of this subchapter.

11 (d) The commission by rule shall:

12 (1) specify what information must be contained in a  
13 certificate of compliance;

14 (2) describe the procedure by which a certificate of  
15 compliance is issued;

16 (3) require that a certificate of compliance related  
17 to an elevator be posted in a publicly visible area of the building;  
18 and

19 (4) determine what constitutes a "publicly visible  
20 area" under Subdivision (3).

21 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to  
22 inspect equipment, an individual must:

23 (1) be registered [An inspector must register] with  
24 the department;

25 (2) attend educational programs approved by the  
26 department;

27 (3) [and] be certified as a QEI-1 [an ASME-QEI-1]

1 inspector by an organization accredited by the American Society of  
2 Mechanical Engineers; and

3 (4) pay all applicable fees. [~~Any certification~~  
4 ~~charges or fees shall be paid by the inspector.~~]

5 (b) [~~The commissioner may not by rule prohibit an ASME-QEI-1~~  
6 ~~certified inspector who is registered with the department from~~  
7 ~~inspecting under this subchapter an elevator, an escalator, or~~  
8 ~~related equipment.~~] A person assisting a certified inspector and  
9 working under the direct, on-site supervision of the inspector is  
10 not required to be [~~ASME-QEI-1~~] certified.

11 (c) A registration expires on the first anniversary of the  
12 date of issuance.

13 (d) A certified inspector may not be required to attend more  
14 than seven hours of continuing education during each licensing  
15 period. [~~The commissioner may charge a \$15 fee to certified~~  
16 ~~inspectors for registering with the department.~~]

17 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may  
18 not install, repair, or maintain equipment without registering as a  
19 contractor with the department as required by this subchapter.

20 (b) A contractor shall submit an application for  
21 registration and pay appropriate fees to the department. The  
22 registration application form may require information concerning  
23 the background, experience, or identity of the applicant.

24 (c) A registration expires on the first anniversary of the  
25 date of issuance.

26 (d) A person registering as a contractor under this  
27 subchapter shall submit to the department an initial report, not



1 later than the 60th day following the application date, containing:

2 (1) the street address of each building or location at  
3 which the person performed installation, repair, alteration, or  
4 maintenance of equipment for the previous two years; and

5 (2) the name and mailing address of the building  
6 owner.

7 (e) After the initial report required by Subsection (d), a  
8 contractor registered as required by this subchapter shall submit  
9 to the department a quarterly report containing:

10 (1) the street address of each building or location at  
11 which the contractor performed installation, repair, alteration,  
12 or maintenance of equipment not reported in the contractor's  
13 initial report to the department under Subsection (d); and

14 (2) the name and mailing address of the building  
15 owner.

16 (f) Installation, repair, alteration, and maintenance  
17 standards for contractors must be consistent with ASME Code A17.1,  
18 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

19 Sec. 754.0172. INSPECTION FEE. [~~(a)~~ A person inspecting  
20 an elevator, an escalator, or related equipment under this  
21 subchapter may not charge more than \$65 per elevator cab or per  
22 escalator for each inspection.

23 [~~(b)~~] The amount charged for an inspection or the  
24 performance of an inspection of equipment under this subchapter may  
25 not be contingent on the existence of a maintenance contract  
26 between the person performing the inspection and any other person.

27 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section

1 754.014(h), if ~~[if]~~ a municipality operates a program for the  
2 installation, maintenance, alteration, inspection, or ~~[and]~~  
3 certification of ~~[elevators, escalators, and related]~~ equipment,  
4 this subchapter shall not apply to the ~~[elevators, escalators, and~~  
5 ~~related]~~ equipment in that municipality, provided that the  
6 standards of installation, maintenance, alteration, inspection,  
7 and certification are at least equivalent to ~~[no less stringent~~  
8 ~~than]~~ those contained in this subchapter.

9       Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The  
10 owner of real property on which ~~[an elevator, an escalator, or~~  
11 ~~related]~~ equipment covered by this subchapter is located shall:

12           (1) have the ~~[elevator, escalator, or related]~~  
13 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified  
14 inspector ~~[in accordance with the commissioner's rules];~~

15           (2) obtain an inspection report from the inspector  
16 evidencing that all ~~[elevators, escalators, and related]~~ equipment  
17 in a building on the real property was ~~[were]~~ inspected in  
18 accordance with this subchapter and rules adopted under this  
19 subchapter;

20           (3) file with the executive director ~~[commissioner a~~  
21 ~~copy of]~~ each inspection report, and all applicable fees, ~~[and a \$20~~  
22 ~~filing fee for each report, plus \$5 for each elevator, escalator, or~~  
23 ~~related equipment]~~ not later than the 60th day after the date on  
24 which an inspection is made under this subchapter;

25           (4) display the certificate of compliance:

26                   (A) in a publicly visible area of the building,  
27 as determined by commission rule under Section 754.016, ~~[the~~

1 ~~elevator mechanical room~~] if the certificate relates to an  
2 elevator;

3 (B) in the escalator box if the certificate  
4 relates to an escalator; or

5 (C) in a place designated by the executive  
6 director ~~[commissioner]~~ if the certificate relates to ~~[related]~~  
7 equipment other than an elevator or escalator; and

8 (5) display the inspection report at the locations  
9 designated in Subdivision (4) until a certificate of compliance is  
10 issued ~~[by the commissioner]~~.

11 (b) When an inspection report is filed ~~[with the~~  
12 ~~commissioner]~~, the owner shall submit to the executive director, as  
13 applicable ~~[commissioner]~~:

14 (1) verification that any deficiencies in the  
15 inspector's report have been remedied or that a bona fide contract  
16 to remedy the deficiencies has been entered into; or

17 (2) any application for delay or waiver of an  
18 applicable standard.

19 (c) ~~[An inspection must be made not later than 18 months~~  
20 ~~after the previous calendar year's inspection. This subsection~~  
21 ~~does not affect the requirement that elevators, escalators, or~~  
22 ~~related equipment be inspected at least once each calendar year.~~

23 ~~[(d)]~~ For the purpose of determining timely filing under  
24 Subsection (a)(3) and Section 754.016(b), an inspection report and  
25 filing fees ~~[fee]~~ are considered filed on the earlier of:

26 (1) the date of personal delivery;

27 (2) the date of postmark ~~[mailing]~~ by United States

1 mail if properly addressed to the executive director; or

2 (3) the date of deposit with a commercial courier  
3 service, if properly addressed to the executive director  
4 [commissioner].

5 ~~(d) [(e) If the inspection report and fee required by~~  
6 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~  
7 ~~the owner of the real property on which the elevator, escalator, or~~  
8 ~~related equipment is located an additional \$100 fee for late~~  
9 ~~filing.~~

10 ~~[(f) The commissioner may not require that an inspection~~  
11 ~~report or certificate of compliance be placed inside or immediately~~  
12 ~~outside an elevator cab or escalator or in the lobby or hallways of~~  
13 ~~a building.~~

14 ~~[(g)]~~ A fee may not be charged or collected for a  
15 certificate of compliance for an institution of higher education as  
16 defined in Section 61.003, Education Code.

17 (e) An owner shall report to the department each accident  
18 involving equipment not later than 72 hours following the accident.

19 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~.  
20 The executive director may appoint a chief elevator inspector to  
21 administer the equipment inspection and registration program. The  
22 chief elevator inspector:

23 (1) may not have a financial or commercial interest in  
24 the manufacture, maintenance, repair, inspection, installation, or  
25 sale of equipment; and

26 (2) must possess a QEI-1 certification or obtain the  
27 certification within six months after becoming chief inspector

1 ~~[Fees collected under this subchapter shall be deposited to the~~  
2 ~~credit of an account in the general revenue fund that may be used by~~  
3 ~~the commissioner only to administer and enforce this subchapter and~~  
4 ~~to reimburse expenses of board members provided by this~~  
5 ~~subchapter].~~

6 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS ~~[+~~  
7 ~~PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

8 (1) compile a list of ~~[ASME-QEI-1]~~ certified  
9 inspectors and contractors who are registered with the department  
10 ~~[to perform an inspection under this subchapter]; and~~

11 (2) employ personnel who are ~~[as]~~ necessary to enforce  
12 this subchapter.

13 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department  
14 ~~[commissioner]~~ learns of a situation of noncompliance under Section  
15 754.019, the department ~~[commissioner]~~ shall send notice by  
16 certified mail of the noncompliance and the actions required to  
17 remedy the noncompliance to the record owner of the real property on  
18 which the equipment that is the subject of the noncompliance is  
19 located.

20 Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~  
21 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good  
22 cause for the executive director ~~[commissioner]~~ to believe that ~~[an~~  
23 ~~elevator, an escalator, or related]~~ equipment on real property  
24 poses an imminent and significant danger ~~[is dangerous]~~ or that an  
25 accident involving ~~[an elevator, an escalator, or related]~~  
26 equipment occurred on the property and serious bodily injury or  
27 property damage resulted, the executive director ~~[the~~

1 ~~commissioner~~] may enter the property during regular business hours  
2 after notice to the owner, operator, or person in charge of the  
3 property to inspect the ~~[elevator, escalator, or related]~~ equipment  
4 or investigate the danger or accident at no cost to the owner.

5 (b) The executive director ~~[commissioner]~~ may enter real  
6 property during regular business hours after notice to the owner,  
7 operator, or person in charge of the property to verify, at no cost  
8 to the owner, whether an inspection report or certificate of  
9 compliance has been displayed as required under Section 754.019(a).

10 (c) The commission ~~[commissioner]~~ may deny, suspend, or  
11 revoke a [the] registration under this subchapter and may assess an  
12 administrative penalty ~~[of any ASME-QEI-1 certified inspector]~~  
13 for:

14 (1) obtaining registration with the executive  
15 director ~~[commissioner]~~ by fraud or false representation;

16 (2) falsifying a [any inspection] report submitted to  
17 the executive director ~~[commissioner]~~; or

18 (3) violating this subchapter or a rule adopted under  
19 this subchapter.

20 (d) Proceedings for the denial, suspension, or revocation  
21 of a registration and appeals from those proceedings are governed  
22 by Chapter 2001, Government Code.

23 (e) The executive director ~~[commissioner]~~ is entitled to  
24 appropriate injunctive relief to prevent a violation or threatened  
25 violation of this subchapter or a rule adopted under this  
26 subchapter.

27 (f) ~~[(e)]~~ The executive director ~~[commissioner]~~ may bring

1 suit in a district court in Travis County or in the county in which  
2 the violation or threatened violation occurs. If requested, the  
3 attorney general shall represent the executive director  
4 [~~commissioner~~] in the suit.

5 (g) The executive director may issue an emergency order as  
6 necessary to enforce this subchapter if the executive director  
7 determines that an emergency exists requiring immediate action to  
8 protect the public health and safety.

9 (h) The executive director may issue an emergency order with  
10 simultaneous notice and without hearing or with the notice and  
11 opportunity for hearing practicable under the circumstances.

12 (i) If an emergency order is issued under this section  
13 without a hearing, the executive director shall set the time and  
14 place for a hearing to affirm, modify, or set aside the emergency  
15 order not later than the 10th day after the date the order was  
16 issued.

17 (j) An emergency order may direct a building owner or  
18 manager to disconnect power to or lock out equipment if:

19 (1) the department determines imminent and  
20 significant danger to passenger safety exists if action is not  
21 taken immediately and reasonable effort has been made for voluntary  
22 compliance by notification to the building owner or manager of the  
23 danger before the issuance of an emergency order; or

24 (2) an annual inspection has not been performed in  
25 more than two years and:

26 (A) the department gives the building owner or  
27 manager, or the agent of the building owner or manager, 60 days'

1 written notice by certified mail directing the equipment to be  
2 inspected according to this subchapter; and

3 (B) after the expiration of the notice period  
4 under Paragraph (A), the department gives the building owner or  
5 manager, or the agent of the building owner or manager, written  
6 notice by certified mail stating that an order to disconnect power  
7 or lock out equipment will be made after the seventh day after the  
8 date notice is delivered.

9 (k) If an emergency order to disconnect power or lock out  
10 equipment is issued, the building owner or manager may have the  
11 power reconnected or the equipment unlocked only if:

12 (1) a registered inspector or contractor or a  
13 department representative has filed a written form with the  
14 department verifying the imminent and significant danger has been  
15 removed by repair, replacement, or other means; and

16 (2) the building owner, before the reconnection of  
17 power or unlocking of equipment, reimburses the department for all  
18 expenses incurred relating to the disconnection of power or  
19 lockout.

20 (l) The executive director or the executive director's  
21 designee may allow delayed payment if the building owner or manager  
22 commits in writing to pay the department for the expenses required  
23 by Subsection (k) not later than the 10th day after the date power  
24 is reconnected or equipment is unlocked.

25 (m) If an emergency order to disconnect power or lock out  
26 equipment is issued and the building owner later notifies the  
27 department that the imminent and significant danger no longer



1 exists, the executive director or the executive director's designee  
2 shall, after the requirements of Subsection (k) are satisfied,  
3 promptly issue written permission to reconnect power or unlock the  
4 equipment and notify the owner.

5       Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an  
6 offense if the person receives notice of noncompliance under  
7 Section 754.022 and the person has not remedied the noncompliance  
8 or entered into a bona fide contract to remedy the noncompliance  
9 before the 61st day after the date on which the notice is received.

10       (b) An offense under this section is a Class C misdemeanor.

11       (c) Each day of an offense under Subsection (a) constitutes  
12 a separate offense.

13       Sec. 754.025. APPLICATION OF CERTAIN LAW. (a) Chapter 53,  
14 Occupations Code, applies to a registration under this subchapter.

15       (b) Sections 51.401 and 51.404, Occupations Code, do not  
16 apply to this subchapter.

17       SECTION 9.002. Not later than March 1, 2004, the Texas  
18 Commission of Licensing and Regulation shall adopt the rules  
19 required by Section 754.016 and Subsection (a), Section 754.019,  
20 Health and Safety Code, as amended by this article.

21       SECTION 9.003. The changes in law made by this article apply  
22 only to an inspection report or certificate of compliance issued on  
23 or after the effective date of this article. An inspection report  
24 or certificate issued before the effective date of this article is  
25 covered by the law in effect when the report or certificate was  
26 issued and is valid until the renewal date of that report or  
27 certificate under the terms of the former law, and the former law is

1 continued in effect for that purpose. On renewal, an inspection  
2 report or certificate is subject to Chapter 754, Health and Safety  
3 Code, as amended by this article.

4 SECTION 9.004. (a) This article takes effect September 1,  
5 2003, except that:

6 (1) a contractor is not required to be registered  
7 under Section 754.0171, Health and Safety Code, as amended by this  
8 article, before January 1, 2004; and

9 (2) an escalator constructed before September 1,  
10 2003, is not required to comply with step/skirt index requirements  
11 imposed under the 2002 American Society of Mechanical Engineers  
12 Safety Code for Elevators and Escalators A17.3 before September 1,  
13 2009.

14 (b) A member of the elevator advisory board serving on the  
15 effective date of this article continues to serve until removed by  
16 the governor or until the member's successor is appointed by the  
17 governor.

18 ARTICLE 10. INDUSTRIALIZED HOUSING AND BUILDINGS

19 SECTION 10.001. Section 1202.001, Occupations Code, is  
20 amended by amending Subdivision (2) and adding Subdivision (4-a) to  
21 read as follows:

22 (2) "Construction site office building" means a  
23 commercial structure that is:

24 (A) not open to the public; and

25 (B) used as an office at a commercial site by a  
26 person constructing a building, road, bridge, utility, or other  
27 infrastructure or improvement to real property [~~"Commissioner"~~

1 ~~means the commissioner of licensing and regulation].~~

2 (4-a) "Executive director" means the executive  
3 director of the department.

4 SECTION 10.002. Section 1202.003, Occupations Code, is  
5 amended by amending Subsection (a) and adding Subsection (d) to  
6 read as follows:

7 (a) An industrialized building is a commercial structure  
8 that is:

9 (1) constructed in one or more modules or constructed  
10 using one or more modular components built at a location other than  
11 the commercial [~~permanent~~] site; and

12 (2) designed to be used as a commercial building when  
13 the module or the modular component is transported to the  
14 commercial [~~permanent~~] site and erected or installed [~~on a~~  
15 ~~permanent foundation system~~].

16 (d) An industrialized building includes a permanent  
17 commercial structure and a commercial structure designed to be  
18 transported from one commercial site to another commercial site.

19 SECTION 10.003. Section 1202.101, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1202.101. RULES; ORDERS. (a) The commission  
22 [~~commissioner~~] shall adopt rules and issue orders as necessary to:

23 (1) ensure compliance with the purposes of this  
24 chapter; and

25 (2) provide for uniform enforcement of this chapter.

26 (b) The commission [~~commissioner~~] shall adopt rules as  
27 appropriate to implement the council's actions, decisions,

1 interpretations, and instructions.

2 SECTION 10.004. Section 1202.102, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND  
5 REGULATION. The commission [~~commissioner~~] by rule shall provide  
6 for registration and regulation of manufacturers or builders of  
7 industrialized housing or buildings.

8 SECTION 10.005. Subsection (a), Section 1202.104,  
9 Occupations Code, is amended to read as follows:

10 (a) The commission shall set fees, in amounts sufficient to  
11 cover the costs of the inspections described by this chapter and the  
12 administration of this chapter, for:

13 (1) the registration of manufacturers or builders of  
14 industrialized housing or buildings;

15 (2) the inspection of industrialized housing or  
16 buildings [~~at the manufacturing facility~~]; and

17 (3) the issuance of decals or insignia required under  
18 Section 1202.204.

19 SECTION 10.006. Subchapter C, Chapter 1202, Occupations  
20 Code, is amended by adding Section 1202.106 to read as follows:

21 Sec. 1202.106. APPLICABILITY OF OTHER LAW. Sections 51.401  
22 and 51.404 do not apply to this chapter.

23 SECTION 10.007. Subchapter D, Chapter 1202, Occupations  
24 Code, is amended by adding Section 1202.1535 to read as follows:

25 Sec. 1202.1535. EFFECT OF BUILDING CODE AMENDMENT. (a) An  
26 industrialized building that bears an approved decal or insignia  
27 indicating that the building complies with the mandatory building

1 codes and that has not been modified or altered is considered to be  
2 in compliance with a new mandatory building code adopted by the  
3 council or an amendment to a code approved by the council under  
4 Section 1202.152 or 1202.153.

5 (b) The owner of an industrialized building that bears an  
6 approved decal or insignia indicating the building complies with  
7 the mandatory building codes and that is modified or altered after  
8 the date the council adopts a new mandatory building code or the  
9 council approves a building code amendment must ensure:

10 (1) the entire building complies with the mandatory  
11 building code or building code amendment if the cost of the  
12 modification or alteration to the building is at least 50 percent of  
13 the value of the modules or modular components used in the  
14 construction of the building; or

15 (2) the modified or altered portion of the building  
16 complies with the mandatory building code or building code  
17 amendment if the cost of the modification or alteration is less than  
18 50 percent of the value of the modules or modular components.

19 SECTION 10.008. Section 1202.154, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1202.154. DESIGN REVIEW. To ensure compliance with  
22 the mandatory building [~~construction~~] codes, the department or  
23 approved design review agency shall review all designs, plans, and  
24 specifications of industrialized housing and buildings in  
25 accordance with council interpretations and instructions.

26 SECTION 10.009. Subsection (b), Section 1202.156,  
27 Occupations Code, is amended to read as follows:

1 (b) With reference to the standards and requirements of the  
2 mandatory building [~~construction~~] codes, the council shall  
3 determine, from an engineering performance standpoint, all  
4 questions concerning:

5 (1) code equivalency; or

6 (2) alternative materials or methods of construction.

7 SECTION 10.010. Section 1202.202, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1202.202. DEPARTMENT [~~IN-PLANT~~] INSPECTIONS. (a) To  
10 ensure compliance with the mandatory building codes or approved  
11 designs, plans, and specifications, the department shall inspect  
12 the construction of industrialized housing and buildings [~~at the~~  
13 ~~manufacturing facility~~]. The executive director [~~commissioner~~]  
14 may designate approved third-party inspectors to perform the  
15 inspections subject to the rules of the commission [~~commissioner~~].

16 (b) Local building officials may witness department  
17 [~~in-plant~~] inspections to enable the local officials to make  
18 recommendations on inspection procedures to the council.

19 SECTION 10.011. Section 1202.203, Occupations Code, is  
20 amended by amending Subsection (a) and adding Subsection (c) to  
21 read as follows:

22 (a) A municipal building official shall inspect all  
23 construction involving [~~at the permanent site of~~] industrialized  
24 housing and buildings to be located in the municipality to ensure  
25 compliance with designs, plans, and specifications, including  
26 inspection of:

27 (1) the construction of the foundation system; and

1 (2) the erection and installation of the modules or  
2 modular components on the [~~permanent~~] foundation.

3 (c) An inspection under Subsection (a) shall be conducted:

4 (1) at the permanent site, if the inspection is of  
5 industrialized housing; and

6 (2) at the commercial site, if the inspection is of  
7 industrialized buildings.

8 SECTION 10.012. Section 1202.204, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA.

11 (a) The commission [~~commissioner~~] by rule shall provide for the  
12 placement of decals or insignia on each transportable modular  
13 section or modular component to indicate compliance with the  
14 mandatory building [~~construction~~] codes.

15 (b) The commission by rule shall exempt a construction site  
16 office building from the requirements of this section.

17 SECTION 10.013. Section 1202.205, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1202.205. RECIPROCITY. (a) The commission  
20 [~~commissioner~~] by rule may authorize an inspection of  
21 industrialized housing or buildings constructed in another state to  
22 be performed by an inspector of the equivalent regulatory agency of  
23 the other state.

24 (b) The commission [~~commissioner~~] by rule may authorize an  
25 inspection of industrialized housing or buildings constructed in  
26 this state for use in another state.

27 (c) The commission [~~commissioner~~] shall enter into a

1 reciprocity agreement with the equivalent regulatory agency of the  
2 other state as necessary to implement this section.

3 SECTION 10.014. Subsection (b), Section 1202.251,  
4 Occupations Code, is amended to read as follows:

5 (b) Except as provided by Section 1202.253, requirements  
6 [~~Requirements~~] and regulations not in conflict with this chapter or  
7 with other state law relating to transportation, erection,  
8 installation, or use of industrialized housing or buildings must be  
9 reasonably and uniformly applied and enforced without distinctions  
10 as to whether the housing or buildings are manufactured or are  
11 constructed on-site.

12 SECTION 10.015. Section 1202.252, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1202.252. MUNICIPAL REGULATION OF INDUSTRIALIZED  
15 HOUSING AND BUILDINGS. (a) A municipality that regulates the  
16 on-site construction or installation of industrialized housing and  
17 buildings may:

18 (1) require and review, for compliance with mandatory  
19 building [~~construction~~] codes, a complete set of designs, plans,  
20 and specifications bearing the council's stamp of approval for each  
21 installation of industrialized housing or buildings in the  
22 municipality;

23 (2) require that all applicable local permits and  
24 licenses be obtained before construction begins on a building site;

25 (3) require, in accordance with commission  
26 [~~commissioner~~] rules, that all modules or modular components bear  
27 an approved decal or insignia indicating inspection by the



1 department [~~at the manufacturing facility~~]; and

2 (4) establish procedures for the inspection of:

3 (A) the erection and installation of  
4 industrialized housing or buildings to be located in the  
5 municipality, to ensure compliance with mandatory building  
6 [~~construction~~] codes and commission [~~commissioner~~] rules; and

7 (B) all foundation and other on-site  
8 construction, to ensure compliance with approved designs, plans,  
9 and specifications.

10 (b) Procedures described by Subsection (a)(4) may require:

11 (1) before occupancy, a final inspection or test in  
12 accordance with mandatory building [~~construction~~] codes; and

13 (2) correction of any deficiency identified by the  
14 test or discovered in the final inspection.

15 SECTION 10.016. Subchapter F, Chapter 1202, Occupations  
16 Code, is amended by adding Section 1202.253 to read as follows:

17 Sec. 1202.253. MUNICIPAL REGULATION OF SINGLE-FAMILY AND  
18 DUPLEX INDUSTRIALIZED HOUSING. (a) Single-family or duplex  
19 industrialized housing must have all local permits and licenses  
20 that are applicable to other single-family or duplex dwellings.

21 (b) For purposes of this section, single-family or duplex  
22 industrialized housing is real property.

23 (c) A municipality may adopt regulations that require  
24 single-family or duplex industrialized housing to:

25 (1) have a value equal to or greater than the median  
26 taxable value for each single-family dwelling located within 500  
27 feet of the lot on which the industrialized housing is proposed to

1 be located, as determined by the most recent certified tax  
2 appraisal roll for each county in which the properties are located;

3 (2) have exterior siding, roofing, roofing pitch,  
4 foundation fascia, and fenestration compatible with the  
5 single-family dwellings located within 500 feet of the lot on which  
6 the industrialized housing is proposed to be located;

7 (3) comply with municipal aesthetic standards,  
8 building setbacks, side and rear yard offsets, subdivision control,  
9 architectural landscaping, square footage, and other site  
10 requirements applicable to single-family dwellings; or

11 (4) be securely fixed to a permanent foundation.

12 (d) For purposes of Subsection (c), "value" means the  
13 taxable value of the industrialized housing and the lot after  
14 installation of the housing.

15 (e) Except as provided by Subsection (c), a municipality may  
16 not adopt a regulation under this section that is more restrictive  
17 for industrialized housing than that required for a new  
18 single-family or duplex dwelling constructed on-site.

19 (f) This section does not:

20 (1) limit the authority of a municipality to adopt  
21 regulations to protect historic properties or historic districts;  
22 or

23 (2) affect deed restrictions.

24 SECTION 10.017. Subsection (b), Section 1202.301,  
25 Occupations Code, is amended to read as follows:

26 (b) A person may not construct, sell or offer to sell, lease  
27 or offer to lease, or transport over a street or highway of this

1 state any industrialized housing or building, or modular section or  
2 component of a modular section, in violation of this chapter or a  
3 rule of the commission or order of the commission or executive  
4 director [~~commissioner~~].

5 SECTION 10.018. Section 1202.302, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

8 In addition to imposing sanctions allowed under Section 51.353, the  
9 commission [~~The commissioner~~] may deny, permanently revoke, or  
10 suspend for a definite period and specified location or geographic  
11 area a certificate of registration if the commission [~~commissioner~~]  
12 finds that the applicant or registrant:

13 (1) provided false information on an application or  
14 other document filed with the department;

15 (2) failed to pay a fee or file a report required by  
16 the department for the administration or enforcement of this  
17 chapter;

18 (3) engaged in a false, misleading, or deceptive act  
19 or practice as described by Subchapter E, Chapter 17, Business &  
20 Commerce Code; or

21 (4) violated:

22 (A) this chapter;

23 (B) a rule adopted by the commission or order  
24 issued by the commission or the executive director [~~commissioner~~]  
25 under this chapter; or

26 (C) a decision, action, or interpretation of the  
27 council.

1 SECTION 10.019. Subsection (b), Section 1202.351,  
2 Occupations Code, is amended to read as follows:

3 (b) A person commits an offense if the person [~~knowingly and~~  
4 ~~wilfully~~] violates this chapter or a published rule of the  
5 commission or order of the commission or the executive director  
6 [~~commissioner~~].

7 SECTION 10.020. The following laws are repealed:

8 (1) Subdivision (2), Section 1202.001, Occupations  
9 Code; and

10 (2) Section 1202.103, Occupations Code.

11 ARTICLE 11. PERSONNEL EMPLOYMENT SERVICES

12 SECTION 11.001. Section 2501.001, Occupations Code, is  
13 amended by amending Subdivision (2) and adding Subdivisions (3-a)  
14 and (4-a) to read as follows:

15 (2) "Commission" [~~"Commissioner"~~] means the Texas  
16 Commission of Licensing and Regulation [~~commissioner of licensing~~  
17 ~~and regulation~~].

18 (3-a) "Department" means the Texas Department of  
19 Licensing and Regulation.

20 (4-a) "Executive director" means the executive  
21 director of the department.

22 SECTION 11.002. Section 2501.152, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person  
25 [~~by sworn affidavit~~] may file with the executive director  
26 [~~commissioner~~] a complaint alleging a violation of Section  
27 2501.102.

1 (b) On receipt of a complaint, the executive director  
2 [~~commissioner~~] shall investigate the alleged violation and may:

- 3 (1) inspect any records relevant to the complaint; and  
4 (2) subpoena those records and any necessary  
5 witnesses.

6 SECTION 11.003. Subsections (a) and (c), Section 2501.153,  
7 Occupations Code, are amended to read as follows:

8 (a) If the executive director [~~commissioner~~] determines as  
9 a result of an investigation that a violation of Section 2501.102  
10 may have occurred, the commission [~~commissioner~~] shall hold a  
11 hearing [~~not later than the 45th day after the date the complaint~~  
12 ~~was filed under Section 2501.152~~].

13 (c) The commission [~~commissioner~~] shall render a decision  
14 on the alleged violation [~~not later than the eighth day~~] after [~~the~~  
15 ~~date~~] the hearing is concluded.

16 SECTION 11.004. Section 2501.154, Occupations Code, is  
17 amended to read as follows:

18 Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the  
19 commission [~~commissioner~~] determines that a personnel service has  
20 violated Section 2501.102, the commission [~~commissioner~~] may, as  
21 appropriate:

- 22 (1) issue a warning to the personnel service; or  
23 (2) suspend or revoke the certificate of authority  
24 issued to the personnel service.

25 (b) If, after a hearing, the commission [~~commissioner~~]  
26 determines that a personnel service has violated Section 2501.102,  
27 the commission [~~commissioner~~] may award the complainant an amount

1 equal to the amount of the fee charged by the personnel service.

2 SECTION 11.005. Sections 2501.058 and 2501.155,  
3 Occupations Code, are repealed.

4 ARTICLE 12. PROPERTY TAX CONSULTANTS

5 SECTION 12.001. Section 1152.001, Occupations Code, is  
6 amended by adding Subdivision (3-a) to read as follows:

7 (3-a) "Executive director" means the executive  
8 director of the department.

9 SECTION 12.002. The heading to Subchapter B, Chapter 1152,  
10 Occupations Code, is amended to read as follows:

11 SUBCHAPTER B. DUTIES OF COMMISSION, EXECUTIVE DIRECTOR,  
12 [COMMISSIONER] AND DEPARTMENT

13 SECTION 12.003. Section 1152.051, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The  
16 commission [~~commissioner~~] by rule shall establish standards of  
17 practice, conduct, and ethics for registrants.

18 SECTION 12.004. Subsections (a) and (b), Section 1152.102,  
19 Occupations Code, are amended to read as follows:

20 (a) The council is composed of six members appointed by the  
21 presiding officer of the commission, with the commission's  
22 approval.

23 (b) The presiding officer of the commission may appoint not  
24 more than two members who are qualified for an exemption under  
25 Section 1152.002(a)(3).

26 SECTION 12.005. Subsection (b), Section 1152.104,  
27 Occupations Code, is amended to read as follows:

1 (b) If a vacancy occurs during a member's term, the  
2 presiding officer of the commission, with the commission's  
3 approval, [commissioner] shall appoint to fill the unexpired part  
4 of the term a replacement who meets the qualifications of the  
5 vacated office.

6 SECTION 12.006. Section 1152.105, Occupations Code, is  
7 amended to read as follows:

8 Sec. 1152.105. PRESIDING OFFICER. The presiding officer of  
9 the commission, with the commission's approval, [Before March 1 of  
10 each year, the council] shall appoint [elect] a member of the  
11 council to serve as presiding officer of the council for two years  
12 [until the last day of February of the following year].

13 SECTION 12.007. Section 1152.108, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1152.108. COUNCIL POWERS. The council shall:

16 (1) recommend to the commission ~~[commissioner]~~  
17 standards of practice, conduct, and ethics for registrants to be  
18 adopted under this chapter;

19 (2) recommend to the commission amounts for the fees  
20 it may set under this chapter;

21 (3) recommend to the commission ~~[commissioner]~~  
22 contents for the senior property tax consultant registration  
23 examination and standards of acceptable performance;

24 (4) assist and advise the commission ~~[commissioner]~~ in  
25 recognizing continuing education programs and educational courses  
26 for registrants; and

27 (5) advise the commission ~~[commissioner]~~ in

1 establishing educational requirements for initial applicants.

2 SECTION 12.008. Subsection (a), Section 1152.155,  
3 Occupations Code, is amended to read as follows:

4 (a) To be eligible for registration, an applicant must:

5 (1) be at least 18 years of age;

6 (2) hold a high school diploma or its equivalent;

7 (3) pay the fees required by the commission;

8 (4) have a place of business in this state or designate  
9 a resident of this state as the applicant's agent for service of  
10 process; and

11 (5) meet any additional qualifications required by  
12 this chapter or by the commission [~~commissioner~~] under this chapter  
13 or Chapter 51.

14 SECTION 12.009. Section 1152.160, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION  
17 EXAMINATION. (a) The executive director [~~commissioner~~] shall:

18 (1) adopt an examination for registration as a senior  
19 property tax consultant; and

20 (2) establish the standards for passing the  
21 examination.

22 (b) The department shall offer the examination at times and  
23 places designated by the executive director [~~commissioner~~].

24 (c) To be eligible to take the examination, an applicant  
25 must pay to the department an examination fee. [~~The commissioner by  
26 rule may establish conditions for refunding the examination fee to  
27 an applicant who does not take the examination.~~]



1 (d) The examination must:

2 (1) test the applicant's knowledge of:

3 (A) property taxation;

4 (B) the property tax system;

5 (C) property tax administration;

6 (D) ethical standards; and

7 (E) general principles of appraisal, accounting,  
8 and law as they relate to property tax consulting services; and

9 (2) be graded according to rules adopted by the  
10 commission [~~commissioner~~].

11 SECTION 12.010. Section 1152.201, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1152.201. TERM OF CERTIFICATE OF REGISTRATION. Except  
14 as otherwise provided by the commission, a certificate of  
15 registration expires on the first [~~second~~] anniversary of the date  
16 of issuance.

17 SECTION 12.011. Subsection (a), Section 1152.202,  
18 Occupations Code, is amended to read as follows:

19 (a) The executive director [~~commissioner~~] shall issue to an  
20 eligible registrant a certificate of renewal of registration on the  
21 timely receipt of the required renewal fee. [~~The certificate~~  
22 ~~expires on the second anniversary of the date of issuance.~~]

23 SECTION 12.012. Section 1152.204, Occupations Code, is  
24 amended to read as follows:

25 Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND  
26 COURSES. (a) The commission [~~commissioner~~] by rule shall  
27 recognize appropriate continuing education programs for

1 registrants.

2 (b) The commission [~~commissioner~~] shall recognize a  
3 continuing education course, including a course on the legal issues  
4 and law related to property tax consulting services, that is:

5 (1) approved by the Texas Real Estate Commission or  
6 the Texas Appraiser Licensing and Certification Board; and

7 (2) completed by a registrant who also holds:

8 (A) an active real estate broker license or an  
9 active real estate salesperson license under Chapter 1101; or

10 (B) an active real estate appraiser license or  
11 certificate under Chapter 1103.

12 (c) The commission [~~commissioner~~] may recognize an  
13 educational program or course:

14 (1) related to property tax consulting services; and

15 (2) offered or sponsored by a public provider or a  
16 recognized private provider, including:

17 (A) the comptroller;

18 (B) the State Bar of Texas;

19 (C) the Texas Real Estate Commission;

20 (D) an institution of higher education that meets  
21 program and accreditation standards comparable to those for public  
22 institutions of higher education as determined by the Texas Higher  
23 Education Coordinating Board; or

24 (E) a nonprofit and voluntary trade association,  
25 institute, or organization:

26 (i) whose membership consists primarily of  
27 persons who represent property owners in property tax or

1 transactional tax matters;

2 (ii) that has written experience and  
3 examination requirements for membership or for granting  
4 professional designation to its members; and

5 (iii) that subscribes to a code of  
6 professional conduct or ethics.

7 (d) The commission [~~commissioner~~] may recognize a private  
8 provider of an educational program or course if the provider:

9 (1) applies to the department on a printed form  
10 prescribed by the executive director [~~commissioner~~]; and

11 (2) pays in the amounts set by the commission:

12 (A) a nonrefundable application fee; and

13 (B) an educational provider's fee.

14 (e) The department shall refund the educational provider's  
15 fee if the commission [~~commissioner~~] does not recognize the  
16 provider's educational program or course.

17 SECTION 12.013. Section 1152.251, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1152.251. DISCIPLINARY POWERS OF COMMISSION  
20 [~~COMMISSIONER~~]. After a hearing, the commission [~~commissioner~~] may  
21 deny a certificate of registration and may impose an administrative  
22 sanction or penalty and seek injunctive relief and a civil penalty  
23 against a registrant as provided by Chapter 51 for:

24 (1) a violation of this chapter or a rule applicable to  
25 the registrant adopted by the commission [~~commissioner~~] under this  
26 chapter;

27 (2) gross incompetency in the performance of property

1 tax consulting services;

2 (3) dishonesty or fraud committed while performing  
3 property tax consulting services; or

4 (4) a violation of the standards of ethics adopted by  
5 the commission [~~commissioner~~].

6 SECTION 12.014. The following laws are repealed:

7 (1) Subdivision (2), Section 1152.001, Occupations  
8 Code;

9 (2) Section 1152.161, Occupations Code;

10 (3) Section 1152.163, Occupations Code;

11 (4) Subsections (b) and (c), Section 1152.202,  
12 Occupations Code; and

13 (5) effective March 1, 2004, Section 1152.203,  
14 Occupations Code.

15 SECTION 12.015. The change in law made by this article to  
16 Section 1152.201, Occupations Code, applies only to a certificate  
17 of registration issued or renewed on or after the effective date of  
18 this Act. A certificate of registration issued or renewed before  
19 the effective date of this Act is governed by that section as it  
20 existed immediately before the effective date of this Act, and that  
21 law is continued in effect for that purpose.

22 SECTION 12.016. The changes in law made by this article  
23 applying to members of the Property Tax Consultants Advisory  
24 Council do not affect the entitlement of a member serving on the  
25 council immediately before September 1, 2003, to continue to serve  
26 and function as a member of the council for the remainder of the  
27 member's term. Those changes in law apply only to a member

1 appointed on or after September 1, 2003.

2 ARTICLE 13. SERVICE CONTRACT PROVIDERS

3 SECTION 13.001. Section 1304.002, Occupations Code, is  
4 amended by adding Subdivision (5-a) to read as follows:

5 (5-a) "Executive director" means the executive  
6 director of the department.

7 SECTION 13.002. Section 1304.051, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD.

10 (a) The Service Contract Providers Advisory Board consists of six  
11 members appointed by the presiding officer of the commission, with  
12 the commission's approval, [commissioner] and one ex officio  
13 nonvoting member.

14 (b) Of the appointed members:

15 (1) two must be officers, directors, or employees of a  
16 provider of service contracts that have been approved by the  
17 executive director [commissioner];

18 (2) two must be officers, directors, or employees of a  
19 retail outlet or other entity in this state that provides to  
20 consumers service contracts approved by the executive director  
21 [commissioner] for sale to consumers;

22 (3) one must be an officer, director, or employee of an  
23 entity authorized by the Texas Department of Insurance to sell  
24 reimbursement insurance policies; and

25 (4) one must be a resident of this state who holds, as  
26 a consumer, a service contract that is in force in this state on the  
27 date of the member's appointment and was issued by a provider

1 registered under this chapter.

2 (c) The executive director [~~commissioner~~] or the executive  
3 director's [~~commissioner's~~] designee serves as an ex officio  
4 nonvoting member of the advisory board.

5 SECTION 13.003. Subsection (a), Section 1304.052,  
6 Occupations Code, is amended to read as follows:

7 (a) The advisory board shall advise the commission  
8 [~~commissioner~~] in adopting rules and in administering and enforcing  
9 this chapter.

10 SECTION 13.004. Subsection (b), Section 1304.053,  
11 Occupations Code, is amended to read as follows:

12 (b) If a vacancy occurs during an appointed member's term,  
13 the presiding officer of the commission [~~commissioner~~] shall fill  
14 the vacancy for the remainder of the unexpired term with a person  
15 who represents the same interests as the predecessor.

16 SECTION 13.005. Section 1304.054, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1304.054. PRESIDING OFFICER. The presiding officer of  
19 the commission, with the commission's approval, [~~commissioner~~]  
20 shall designate one member of the advisory board to serve as  
21 presiding officer of the board for two years.

22 SECTION 13.006. Subsections (a) and (b), Section 1304.103,  
23 Occupations Code, are amended to read as follows:

24 (a) The executive director [~~commissioner~~] shall develop a  
25 tiered schedule of annual registration fees under which a  
26 provider's registration fee is based on the number of service  
27 contracts the provider sold in this state during the preceding

1 12-month period.

2 (b) The commission shall set the amounts of the fees to  
3 cover the costs of administering this chapter. [~~The maximum fee may~~  
4 ~~not exceed \$2,000.~~]

5 SECTION 13.007. Subchapter C, Chapter 1304, Occupations  
6 Code, is amended by adding Section 1304.105 to read as follows:

7 Sec. 1304.105. RENEWAL. The commission shall adopt rules  
8 regarding the renewal of a registration issued under this chapter.

9 SECTION 13.008. Subsections (a), (b), (c), and (e), Section  
10 1304.151, Occupations Code, are amended to read as follows:

11 (a) To ensure the faithful performance of a provider's  
12 obligations to its service contract holders, each provider must:

13 (1) insure the provider's service contracts under a  
14 reimbursement insurance policy issued by an insurer authorized to  
15 transact insurance in this state or by a surplus lines insurer  
16 eligible to place coverage in this state under Chapter 981 [~~Article~~  
17 ~~1.14-2~~], Insurance Code;

18 (2) maintain a funded reserve account covering the  
19 provider's obligations under its service contracts that are issued  
20 and outstanding in this state and place in trust with the executive  
21 director [~~commissioner~~] a financial security deposit consisting  
22 of:

23 (A) a surety bond issued by an authorized surety;

24 (B) securities of the type eligible for deposit  
25 by an authorized insurer in this state;

26 (C) a statutory deposit of cash or cash  
27 equivalents;

1 (D) a letter of credit issued by a qualified  
2 financial institution; or

3 (E) another form of security prescribed by rules  
4 adopted by the commission [~~commissioner~~]; or

5 (3) maintain, or have a parent company that maintains,  
6 a net worth or stockholders' equity of at least \$100 million.

7 (b) If the provider ensures its obligations under  
8 Subsection (a)(2), the amount maintained in the reserve account may  
9 not be less than an amount equal to 40 percent of the gross  
10 consideration the provider received from consumers from the sale of  
11 all service contracts issued and outstanding in this state, minus  
12 any claims paid. The executive director [~~commissioner~~] may review  
13 and examine the reserve account. The amount of the security deposit  
14 may not be less than the greater of:

15 (1) \$25,000; or

16 (2) an amount equal to five percent of the gross  
17 consideration the provider received from consumers from the sale of  
18 all service contracts issued and outstanding in this state, minus  
19 any claims paid.

20 (c) If the provider ensures its obligations under  
21 Subsection (a)(3), the provider must give to the executive director  
22 [~~commissioner~~] on request:

23 (1) a copy of the provider's or the provider's parent  
24 company's most recent Form 10-K or Form 20-F filed with the  
25 Securities and Exchange Commission within the preceding calendar  
26 year; or

27 (2) if the provider or the provider's parent company



1 does not file with the Securities and Exchange Commission, a copy of  
2 the provider's or the provider's parent company's audited financial  
3 statements showing a net worth of the provider or its parent company  
4 of at least \$100 million.

5 (e) The executive director [~~commissioner~~] may not require a  
6 provider to meet any additional financial security requirement.

7 SECTION 13.009. Subsection (a), Section 1304.201,  
8 Occupations Code, is amended to read as follows:

9 (a) On a finding that a ground for disciplinary action  
10 exists under this chapter, the commission [~~commissioner~~] may impose  
11 an administrative sanction, including an administrative penalty,  
12 as provided by Chapter 51.

13 SECTION 13.010. The following laws are repealed:

14 (1) Subdivision (3), Section 1304.002, Occupations  
15 Code; and

16 (2) Subsection (b), Section 1304.201, Occupations  
17 Code.

18 SECTION 13.011. The changes in law made by this article  
19 applying to members of the Service Contract Providers Advisory  
20 Board do not affect the entitlement of a member serving on the board  
21 immediately before September 1, 2003, to continue to serve and  
22 function as a member of the board for the remainder of the member's  
23 term. Those changes in law apply only to a member appointed on or  
24 after September 1, 2003.

25 ARTICLE 14. STAFF LEASING SERVICES

26 SECTION 14.001. Section 91.001, Labor Code, is amended by  
27 adding Subdivision (8-a) to read as follows:

1           (8-a) "Executive director" means the executive  
2 director of the department.

3           SECTION 14.002. Subsections (a) and (b), Section 91.002,  
4 Labor Code, are amended to read as follows:

5           (a) The commission [~~commissioner~~] shall adopt rules as  
6 necessary to administer this chapter.

7           (b) Each person who offers staff leasing services is subject  
8 to this chapter and the rules adopted by the commission  
9 [~~commissioner~~].

10          SECTION 14.003. Subchapter A, Chapter 91, Labor Code, is  
11 amended by adding Section 91.008 to read as follows:

12          Sec. 91.008. APPLICABILITY OF CONTINUING EDUCATION LAW.  
13 Section 51.405, Occupations Code, does not apply to this chapter.

14          SECTION 14.004. Subsection (b), Section 91.016, Labor Code,  
15 is amended to read as follows:

16          (b) A license issued or renewed by the department under this  
17 chapter is valid for one year [~~two years~~] from the date of the  
18 issuance or renewal. The department shall renew a license on  
19 receipt of a complete renewal application form and payment of the  
20 license renewal fee.

21          SECTION 14.005. Subsection (a), Section 91.017, Labor Code,  
22 is amended to read as follows:

23          (a) Each applicant for an original or renewal staff leasing  
24 services company license shall pay to the department before the  
25 issuance of the license or license renewal a fee set by the  
26 commission by rule [~~in an amount not to exceed \$6,000 for the~~  
27 ~~two-year license period~~].

1 SECTION 14.006. Subsections (b) and (d), Section 91.018,  
2 Labor Code, are amended to read as follows:

3 (b) A license holder may change the license holder's  
4 licensed name at any time by notifying the department and paying a  
5 fee for each change of name. The commission by rule shall set the  
6 fee for a name change [~~in an amount not to exceed \$50~~]. A license  
7 holder may change the license holder's name on renewal of the  
8 license without the payment of the name change fee.

9 (d) A license holder may amend the name specified in its  
10 license to add a trade name, trademark, service mark, or parent  
11 company name. An amendment made under this subsection must comply  
12 with the requirements imposed under Subsection (a). The department  
13 may charge a fee [~~not to exceed \$50~~] for processing of such an  
14 amendment.

15 SECTION 14.007. Subsection (a), Section 91.019, Labor Code,  
16 is amended to read as follows:

17 (a) The commission [~~commissioner~~] by rule shall provide for  
18 the issuance of a limited license to a person who seeks to offer  
19 limited staff leasing services in this state.

20 SECTION 14.008. Section 91.020, Labor Code, is amended to  
21 read as follows:

22 Sec. 91.020. GROUNDS FOR DISCIPLINARY ACTION. [~~(a)~~] The  
23 department may take disciplinary action against a license holder on  
24 any of the following grounds:

25 (1) [~~being convicted or having a controlling person of~~  
26 ~~the license holder who is convicted of:~~

27 [~~(A) bribery, fraud, or intentional or material~~

1 ~~misrepresentation in obtaining, attempting to obtain, or renewing a~~  
2 ~~license;~~

3 ~~[(B) a crime that relates to the operation of a~~  
4 ~~staff leasing service or the ability of the license holder or any~~  
5 ~~controlling person of the license holder to operate a staff leasing~~  
6 ~~service;~~

7 ~~[(C) a crime that relates to the classification,~~  
8 ~~misclassification, or under-reporting of employees under Subtitle~~  
9 ~~A, Title 5;~~

10 ~~[(D) a crime that relates to the establishment or~~  
11 ~~maintenance of a self-insurance program, whether health insurance,~~  
12 ~~workers' compensation insurance, or other insurance; or~~

13 ~~[(E) a crime that relates to fraud, deceit, or~~  
14 ~~misconduct in the operation of a staff leasing service;~~

15 ~~[(2)]~~ engaging in staff leasing services or offering  
16 to engage in the provision of staff leasing services without a  
17 license;

18 (2) ~~[(3)]~~ transferring or attempting to transfer a  
19 license issued under this chapter;

20 (3) ~~[(4)]~~ violating this chapter or any order or rule  
21 issued by the executive director ~~[department]~~ or commission  
22 ~~[commissioner]~~ under this chapter;

23 (4) ~~[(5)]~~ failing after the 31st day after the date on  
24 which a felony conviction of a controlling person is final to notify  
25 the department in writing of the conviction;

26 (5) ~~[(6)]~~ failing to cooperate with an investigation,  
27 examination, or audit of the license holder's records conducted by

1 the license holder's insurance company or the insurance company's  
2 designee, as allowed by the insurance contract or as authorized by  
3 law by the Texas Department of Insurance;

4 (6) [~~(7)~~] failing after the 31st day after the  
5 effective date of a change in ownership, principal business  
6 address, or the address of accounts and records to notify the  
7 department and the Texas Department of Insurance of the change;

8 (7) [~~(8)~~] failing to correct any tax filings or  
9 payment deficiencies within a reasonable time as determined by the  
10 executive director [~~commissioner~~];

11 (8) [~~(9)~~] refusing, after reasonable notice, to meet  
12 reasonable health and safety requirements within the license  
13 holder's control and made known to the license holder by a federal  
14 or state agency;

15 (9) [~~(10)~~] being delinquent in the payment of the  
16 license holder's insurance premiums other than those subject to a  
17 legitimate dispute;

18 (10) [~~(11)~~] being delinquent in the payment of any  
19 employee benefit plan premiums or contributions other than those  
20 subject to a legitimate dispute;

21 (11) [~~(12)~~] knowingly making a material  
22 misrepresentation to an insurance company or to the department or  
23 other governmental agency;

24 (12) [~~(13)~~] failing to maintain the net worth  
25 requirements required under Section 91.014; or

26 (13) [~~(14)~~] using staff leasing services to avert or  
27 avoid an existing collective bargaining agreement.

1           ~~[(b) For purposes of this section, "conviction" includes a~~  
2 ~~plea of nolo contendere or a finding of guilt, regardless of~~  
3 ~~adjudication.]~~

4           SECTION 14.009. Subsection (c), Section 91.041, Labor Code,  
5 is amended to read as follows:

6           (c) The commission ~~[commissioner]~~ by rule may require a  
7 license holder to file other reports that are reasonably necessary  
8 for the implementation of this chapter.

9           SECTION 14.010. The following laws are repealed:

- 10           (1) Subdivision (5), Section 91.001, Labor Code; and  
11           (2) Section 91.021, Labor Code.

12           SECTION 14.011. The change in law made by this article to  
13 Subsection (b), Section 91.016, Labor Code, applies only to a  
14 license issued or renewed on or after January 1, 2004. A license  
15 issued or renewed before January 1, 2004, is governed by that  
16 subsection as it existed immediately before that date, and that law  
17 is continued in effect for that purpose.

18           ARTICLE 15. TALENT AGENCIES

19           SECTION 15.001. Section 2105.001, Occupations Code, is  
20 amended by amending Subdivision (2) and adding Subdivision (3-a) to  
21 read as follows:

22           (2) "Commission" ~~["Commissioner"]~~ means the Texas  
23 Commission of Licensing and Regulation ~~[commissioner of licensing~~  
24 ~~and regulation]~~.

25           (3-a) "Executive director" means the executive  
26 director of the department.

27           SECTION 15.002. Section 2105.002, Occupations Code, is

1 amended to read as follows:

2           Sec. 2105.002. POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) The  
3 executive director [~~department~~] shall[+]

4           [~~(1)~~] prescribe application forms for original and  
5 renewal certificates of registration.

6           (b) The commission shall:[+]

7           (1) [~~(2)~~] set application and registration fees in  
8 amounts that are reasonable and necessary to defray the costs of  
9 administering this chapter; and

10           (2) [~~(3)~~] adopt rules as necessary to implement this  
11 chapter.

12           (c) [~~(b)~~] The commission [~~department~~] may[+]

13           [~~(1)~~] adopt rules as necessary to administer the  
14 registration program created under this chapter.

15           (d) The department may[+ and

16           [~~(2)~~] take other action as necessary to enforce this  
17 chapter.

18           SECTION 15.003. Subchapter A, Chapter 2105, Occupations  
19 Code, is amended by adding Section 2105.003 to read as follows:

20           Sec. 2105.003. APPLICABILITY OF OTHER LAW. Section 51.405  
21 does not apply to this chapter.

22           SECTION 15.004. Section 2105.053, Occupations Code, is  
23 amended to read as follows:

24           Sec. 2105.053. REGISTRATION FEE. The department may charge  
25 a talent agency a reasonable fee [~~not to exceed \$100~~] to cover the  
26 cost of filing a registration statement or an update of a  
27 registration statement.

1 SECTION 15.005. Section 2105.104, Occupations Code, is  
2 amended to read as follows:

3 Sec. 2105.104. AGENCY RECORDS. A certificate holder shall  
4 maintain records relating to the operation of the talent agency as  
5 required by commission [~~department~~] rule.

6 SECTION 15.006. Subsection (b), Section 2105.105,  
7 Occupations Code, is amended to read as follows:

8 (b) Funds deposited under this section may be disbursed only  
9 as prescribed by commission [~~department~~] rule.

10 SECTION 15.007. The following laws are repealed:

11 (1) Subsections (b) and (c), Section 2105.055,  
12 Occupations Code;

13 (2) Subsections (a), (b), and (c), Section 2105.056,  
14 Occupations Code; and

15 (3) Section 2105.252, Occupations Code.

16 ARTICLE 16. TEMPORARY COMMON WORKER EMPLOYERS

17 SECTION 16.001. Section 92.002, Labor Code, is amended by  
18 adding Subdivision (4-a) to read as follows:

19 (4-a) "Executive director" means the executive  
20 director of the department.

21 SECTION 16.002. Subchapter A, Chapter 92, Labor Code, is  
22 amended by adding Section 92.004 to read as follows:

23 Sec. 92.004. APPLICABILITY OF OTHER LAW. Section 51.405,  
24 Occupations Code, does not apply to this chapter.

25 SECTION 16.003. Subsection (c), Section 92.022, Labor Code,  
26 is amended to read as follows:

27 (c) Information received by the commission [~~commissioner~~]



1 or department under this section is privileged and confidential and  
2 is for the exclusive use of the commission [~~commissioner~~] or  
3 department. The information may not be disclosed to any other  
4 person except on the entry of a court order requiring disclosure or  
5 on the written consent of a person under investigation who is the  
6 subject of the records.

7 SECTION 16.004. The following laws are repealed:

- 8 (1) Subdivision (2), Section 92.002, Labor Code; and  
9 (2) Subsections (b) and (c), Section 92.015, Labor  
10 Code.

11 ARTICLE 17. TRANSPORTATION SERVICE PROVIDERS

12 SECTION 17.001. Subdivision (2), Section 2401.001,  
13 Occupations Code, is amended to read as follows:

- 14 (2) "Department" means the [~~Texas~~] Department of  
15 Public Safety [~~Licensing and Regulation~~].

16 SECTION 17.002. The heading to Subchapter B, Chapter 2401,  
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER B. POWERS AND DUTIES [~~OF COMMISSION, COMMISSIONER, AND~~  
19 ~~DEPARTMENT~~]

20 SECTION 17.003. Section 2401.052, Occupations Code, is  
21 amended to read as follows:

22 Sec. 2401.052. EXAMINATION OR AUDIT. (a) To administer  
23 this chapter, the department may:

- 24 (1) examine:  
25 (A) a record maintained under Section 2401.152;  
26 or  
27 (B) a record or object the department determines

1 is necessary to conduct a complete examination; or

2 (2) question under oath any person who~~+~~

3 [~~(A)~~] is associated with the business of a  
4 transportation service provider~~[, or~~

5 [~~(B) claims the person was negatively affected by~~  
6 ~~a violation of this chapter committed by a transportation service~~  
7 ~~provider]~~.

8 (b) The department may periodically audit the business  
9 records of a transportation service provider [~~registered under this~~  
10 ~~chapter]~~.

11 SECTION 17.004. Section 2401.251, Occupations Code, is  
12 amended to read as follows:

13 Sec. 2401.251. CIVIL PENALTY. A transportation service  
14 provider who knowingly violates this chapter [~~or a rule adopted~~  
15 ~~under this chapter]~~ is liable for a civil penalty of not less than  
16 \$100 or more than \$500 for each violation.

17 SECTION 17.005. Section 2401.253, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT.

20 (a) The department [~~commissioner, with the assistance of the Texas~~  
21 ~~Department of Public Safety,~~] may investigate a violation of this  
22 chapter [~~or a rule adopted under this chapter]~~.

23 (b) Any [~~The commissioner or any]~~ law enforcement agency may  
24 file a complaint with:

25 (1) the district attorney of Travis County; or

26 (2) the prosecuting attorney of the county in which a  
27 violation is alleged to have occurred.

1 SECTION 17.006. The following laws are repealed:

2 (1) Subdivision (1), Section 2401.001, Occupations  
3 Code;

4 (2) Section 2401.051, Occupations Code;

5 (3) Section 2401.053, Occupations Code;

6 (4) Section 2401.054, Occupations Code;

7 (5) Subchapter C, Chapter 2401, Occupations Code;

8 (6) Section 2401.151, Occupations Code; and

9 (7) Subchapter E, Chapter 2401, Occupations Code.

10 SECTION 17.007. (a) On November 1, 2003:

11 (1) all functions and activities relating to Chapter  
12 2401, Occupations Code, performed by the Texas Department of  
13 Licensing and Regulation immediately before that date are  
14 transferred to the Department of Public Safety of the State of  
15 Texas;

16 (2) a reference in law or an administrative rule to the  
17 Texas Department of Licensing and Regulation that relates to  
18 Chapter 2401, Occupations Code, means the Department of Public  
19 Safety;

20 (3) a complaint, investigation, or other proceeding  
21 before the Texas Department of Licensing and Regulation that is  
22 related to Chapter 2401, Occupations Code, is transferred without  
23 change in status to the Department of Public Safety, and the  
24 Department of Public Safety assumes, as appropriate and without a  
25 change in status, the position of the Texas Department of Licensing  
26 and Regulation in an action or proceeding to which the Texas  
27 Department of Licensing and Regulation is a party;

1           (4) all money, contracts, leases, property, and  
2 obligations of the Texas Department of Licensing and Regulation  
3 related to Chapter 2401, Occupations Code, are transferred to the  
4 Department of Public Safety;

5           (5) all property in the custody of the Texas  
6 Department of Licensing and Regulation related to Chapter 2401,  
7 Occupations Code, is transferred to the Department of Public  
8 Safety; and

9           (6) the unexpended and unobligated balance of any  
10 money appropriated by the legislature for the Texas Department of  
11 Licensing and Regulation related to Chapter 2401, Occupations Code,  
12 is transferred to the Department of Public Safety.

13           (b) An offense or other violation related to Chapter 2401,  
14 Occupations Code, committed before the effective date of this Act  
15 is covered by the law as it existed on the date on which the offense  
16 or other violation was committed, and the former law is continued in  
17 effect for that purpose.

18           (c) Before November 1, 2003, the Texas Department of  
19 Licensing and Regulation may agree with the Department of Public  
20 Safety of the State of Texas to transfer any property of the Texas  
21 Department of Licensing and Regulation to the Department of Public  
22 Safety to implement the transfer required by this article.

23           (d) In the period beginning on the effective date of this  
24 Act and ending on November 1, 2003, the Texas Department of  
25 Licensing and Regulation shall continue to perform functions and  
26 activities under Chapter 2401, Occupations Code, as if that chapter  
27 had not been amended by this Act, and the former law is continued in

1 effect for that purpose.

2 ARTICLE 18. VEHICLE PROTECTION PRODUCT WARRANTORS

3 SECTION 18.001. Section 2, Article 9035, Revised Statutes,  
4 is amended by adding Subdivision (4-a) to read as follows:

5 (4-a) "Executive director" means the executive  
6 director of the department.

7 SECTION 18.002. Article 9035, Revised Statutes, is amended  
8 by adding Section 3A to read as follows:

9 Sec. 3A. APPLICABILITY OF OTHER LAW. Section 51.405,  
10 Occupations Code, does not apply to this article.

11 SECTION 18.003. Section 4, Article 9035, Revised Statutes,  
12 is amended to read as follows:

13 Sec. 4. POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The  
14 commission [~~commissioner~~] may adopt rules as necessary to implement  
15 this article.

16 (b) The executive director [~~commissioner~~] may conduct  
17 investigations of warrantors or other persons as reasonably  
18 necessary to enforce this article and to protect consumers in this  
19 state. On request of the executive director [~~commissioner~~], a  
20 warrantor shall make the warrantor's records maintained under  
21 Section 10 of this article regarding vehicle protection products  
22 sold by the warrantor available to the department as necessary to  
23 enable the department to reasonably determine compliance with this  
24 article.

25 SECTION 18.004. Subsections (a) through (g), Section 5,  
26 Article 9035, Revised Statutes, are amended to read as follows:

27 (a) The Vehicle Protection Product Warrantor Advisory Board

1 is an advisory body to the commission [~~department~~]. The advisory  
2 board shall advise[+]

3 [~~(1)~~] the commission [~~commissioner~~] on adopting  
4 rules, [~~and~~] enforcing and administering this article, [~~+~~] and

5 [~~(2) — the commission on~~] setting fees.

6 (b) The advisory board consists of six members appointed by  
7 the presiding officer of the commission, with the commission's  
8 approval, [~~commissioner~~] as follows:

9 (1) two members who are officers, directors, or  
10 employees of a warrantor who has been approved or expects to be  
11 approved by the department;

12 (2) two members who are officers, directors, or  
13 employees of a retail outlet or other entity located in this state  
14 that sells vehicle protection products and is approved or expected  
15 to be approved by the department; and

16 (3) two members who are residents of this state and, at  
17 the time of appointment, are consumers of vehicle protection  
18 products issued by warrantors registered or expected to be  
19 registered under this article.

20 (c) Members of the advisory board serve staggered six-year  
21 terms, with the terms of two members expiring on February 1 of each  
22 odd-numbered year. [~~The commissioner shall appoint the initial six~~  
23 ~~board members to terms of six years or less in order to create~~  
24 ~~staggered terms for the subsequent members of the advisory board.~~]

25 (d) The presiding officer of the commission, with the  
26 commission's approval, [~~commissioner~~] shall designate one member  
27 of the advisory board to serve as presiding officer of the board for

1 two years.

2 (e) The executive director [~~commissioner~~] or the executive  
3 director's [~~commissioner's~~] designee serves as an ex officio  
4 nonvoting member of the advisory board.

5 (f) The presiding officer of the commission, with the  
6 commission's approval, [~~commissioner~~] shall fill any vacancy on the  
7 advisory board by appointing an individual who meets the  
8 qualifications for the vacant advisory board position to serve the  
9 remainder of the unexpired term.

10 (g) The advisory board shall meet at least every six months  
11 and may meet at other times at the call of the presiding officer of  
12 the board or the presiding officer of the commission  
13 [~~commissioner~~]. The advisory board shall meet at a location in this  
14 state designated by the [~~advisory~~] board.

15 SECTION 18.005. Subsections (c) and (d), Section 6, Article  
16 9035, Revised Statutes, are amended to read as follows:

17 (c) Each registered warrantor shall pay an annual  
18 registration fee [~~not to exceed \$2,500~~] as set by the commission to  
19 cover the costs of administering this article. The department  
20 shall develop a tiered fee structure under which registration fees  
21 are assessed on warrantors based on the number of vehicle  
22 protection products sold within this state in the 12 months  
23 preceding the date of registration. The information submitted to  
24 the department under this section regarding the number of vehicle  
25 protection products sold by a warrantor may only be used by the  
26 department in determining the tiered fee structure. Information  
27 concerning the number of vehicle protection products sold by a

1 warrantor submitted under this section is a trade secret and  
2 subject to Section 552.110, Government Code.

3 (d) The commission [~~commissioner~~] shall adopt rules  
4 providing for the renewal of a warrantor's registration.

5 SECTION 18.006. Subsection (e), Section 10, Article 9035,  
6 Revised Statutes, is amended to read as follows:

7 (e) The commission [~~commissioner~~] shall adopt rules  
8 governing how a warrantor shall protect nonpublic personal  
9 information provided by a consumer to the warrantor.

10 SECTION 18.007. Subsections (a) and (c), Section 16,  
11 Article 9035, Revised Statutes, are amended to read as follows:

12 (a) The executive director [~~commissioner~~] may bring an  
13 action against a warrantor for injunctive relief under Section  
14 51.352, Occupations Code, for a threatened or existing violation of  
15 this article or of the [~~commissioner's~~] orders or rules adopted  
16 under this article.

17 (c) For purposes of this section [~~and Section 15 of this~~  
18 ~~article~~], violations are of a similar nature if the violations  
19 consist of the same or a similar course of conduct, action, or  
20 practice, regardless of the number of times the conduct, act, or  
21 practice determined to be a violation of this article occurred.

22 SECTION 18.008. The following laws are repealed:

23 (1) Subdivision (2), Section 2, Article 9035, Revised  
24 Statutes; and

25 (2) Section 15, Article 9035, Revised Statutes.

26 SECTION 18.009. The changes in law made by this article  
27 applying to members of the Vehicle Protection Product Warrantor



1 Advisory Board do not affect the entitlement of a member serving on  
2 the board immediately before September 1, 2003, to continue to  
3 serve and function as a member of the board for the remainder of the  
4 member's term. Those changes in law apply only to a member  
5 appointed on or after September 1, 2003.

6 ARTICLE 19. WATER WELL DRILLERS

7 SECTION 19.001. Section 1901.001, Occupations Code, is  
8 amended by adding Subdivisions (7-a) and (7-b) to read as follows:

9 (7-a) "Executive director" means the executive  
10 director of the department.

11 (7-b) "Groundwater conservation district" means a  
12 district to which Chapter 36, Water Code, applies.

13 SECTION 19.002. Section 1901.051, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1901.051. LICENSING. (a) The department, with the  
16 advice of the council, shall prepare licensing examinations.

17 (b) The department shall [and] evaluate the qualifications  
18 of license applicants.

19 (c) [(b)] The executive director [~~commissioner~~] shall issue  
20 licenses to applicants who qualify.

21 SECTION 19.003. Section 1901.052, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1901.052. RULES. (a) The commission [~~commissioner,~~  
24 ~~with advice and comment from the Texas Natural Resource~~  
25 ~~Conservation Commission,~~] shall adopt rules as necessary to enforce  
26 this chapter, including rules governing:

- 27 (1) license applications;

- 1           (2) qualifications of applicants;
- 2           (3) standards of conduct for drillers, including
- 3 standards for marking well drilling rigs and equipment; and
- 4           (4) procedures and practices before the department.

5           (b) The commission [~~commissioner~~] may not adopt a rule under

6 this chapter that:

7           (1) regulates the installation or repair of well pumps

8 and equipment by:

9                   (A) a person on property the person owns or

10 controls for the person's own use;

11                   (B) an employee of a person described by

12 Paragraph (A); or

13                   (C) a person who is not hired or compensated and

14 who acts on behalf of a person described by Paragraph (A); or

15           (2) requires a person who owns or controls property or

16 possesses a well to complete, repair, or retrofit the well to any

17 standard other than a standard in effect at the time the well was

18 originally completed unless the well is found to be a threat to

19 public health and safety or to water quality.

20           SECTION 19.004. Subsection (a), Section 1901.101,

21 Occupations Code, is amended to read as follows:

22           (a) The Texas Water Well Drillers Advisory Council consists

23 of nine members appointed by the presiding officer of the

24 commission, with the commission's approval, [~~department~~] as

25 follows:

26           (1) six members who are drillers experienced in the

27 well drilling business and familiar with well drilling, completion,

1 and plugging methods and techniques; and

2 (2) three public members.

3 SECTION 19.005. Section 1901.105, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1901.105. PRESIDING OFFICER. The presiding officer of  
6 the commission, with the commission's approval, [council] shall  
7 appoint [elect] a member of the council to serve as presiding  
8 officer of the council for two years [by a majority vote at the  
9 first meeting each year].

10 SECTION 19.006. Subsections (a) and (d), Section 1901.109,  
11 Occupations Code, are amended to read as follows:

12 (a) The council may propose rules for adoption by the  
13 commission [commissioner] relating to the regulation of drillers  
14 registered under this chapter.

15 (d) The council shall assist the commission [department] in  
16 evaluating continuing education programs.

17 SECTION 19.007. Subsection (b), Section 1901.152,  
18 Occupations Code, is amended to read as follows:

19 (b) An applicant must pay to the department an [a  
20 nonrefundable] examination fee at the time the application is  
21 submitted.

22 SECTION 19.008. Section 1901.162, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
25 STATE. The commission [commissioner] may adopt rules allowing  
26 waiver of a license requirement for an applicant who is licensed in  
27 another state that has license requirements substantially

1 equivalent to those of this state.

2 SECTION 19.009. Subsection (a), Section 1901.251,  
3 Occupations Code, is amended to read as follows:

4 (a) Each driller who drills, deepens, or otherwise alters a  
5 water well in this state shall make and keep a legible and accurate  
6 well log in accordance with rules adopted by the commission and on  
7 forms prescribed by the executive director [~~commissioner~~]. The  
8 well log shall be recorded at the time of drilling, deepening, or  
9 otherwise altering the well and must contain:

10 (1) the depth, thickness, and character of the strata  
11 penetrated;

12 (2) the location of water-bearing strata;

13 (3) the depth, size, and character of casing  
14 installed; and

15 (4) any other information required by rules adopted by  
16 the commission [~~commissioner~~].

17 SECTION 19.010. Subsection (b), Section 1901.252,  
18 Occupations Code, is amended to read as follows:

19 (b) The commission [~~commissioner~~] shall adopt rules  
20 specifying the manner for marking a rig.

21 SECTION 19.011. Section 1901.253, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1901.253. COMPLETING WATER WELL. A driller shall  
24 complete a well under standards and procedures adopted by the  
25 commission [~~commissioner~~].

26 SECTION 19.012. Subsection (b), Section 1901.254,  
27 Occupations Code, is amended to read as follows:

1 (b) The driller shall ensure that the well is plugged,  
2 repaired, or properly completed under standards and procedures  
3 adopted by the commission [~~commissioner~~].

4 SECTION 19.013. Section 1901.255, Occupations Code, is  
5 amended by amending Subsections (c) and (d) and adding Subsection  
6 (e) to read as follows:

7 (c) Not later than the 180th day after the date a landowner  
8 or other person who possesses an abandoned or deteriorated well  
9 learns of its condition, the landowner or other person shall have  
10 the well plugged or capped under standards and procedures adopted  
11 by the commission [~~commissioner~~].

12 (d) Not later than the 30th day after the date the well is  
13 plugged, a [A] driller, licensed pump installer, or well owner who  
14 plugs an abandoned or deteriorated well shall submit a plugging  
15 report to:

16 (1) the board of directors of the groundwater  
17 conservation district in which the well is located, if the well is  
18 located in the boundaries of a groundwater conservation district;  
19 and

20 (2) the executive director [~~commissioner not later~~  
21 ~~than the 30th day after the date the well is plugged~~].

22 (e) The department or the groundwater conservation district  
23 in which the well is located shall furnish plugging report forms on  
24 request. The executive director shall prescribe the content of the  
25 forms.

26 SECTION 19.014. Subchapter F, Chapter 1901, Occupations  
27 Code, is amended by adding Section 1901.256 to read as follows:

1       Sec. 1901.256. ENFORCEMENT BY GROUNDWATER CONSERVATION  
2 DISTRICT. (a) This section applies only to a violation related to  
3 a well located in the boundaries of the groundwater conservation  
4 district seeking to bring an action under this section.

5       (b) A groundwater conservation district shall enforce  
6 compliance with Section 1901.255 related to wells located in the  
7 boundaries of the district.

8       (c) A groundwater conservation district may bring an action  
9 to enjoin a person from violating Section 1901.255.

10       (d) A groundwater conservation district may enforce by  
11 injunction or other appropriate remedy in a court any rule,  
12 decision, determination, or order adopted or entered under this  
13 chapter that is related to Section 1901.255.

14       (e) A groundwater conservation district may bring an action  
15 to recover a civil penalty under Section 1901.401 for a violation of  
16 this chapter or a rule adopted under this chapter related to Section  
17 1901.255.

18       (f) The groundwater conservation district may bring the  
19 action in the county in which:

20               (1) the offending activity occurred; or

21               (2) the person engaging in the activity resides.

22       SECTION 19.015. Subchapter F, Chapter 1901, Occupations  
23 Code, is amended by adding Section 1901.257 to read as follows:

24       Sec. 1901.257. MEMORANDUM OF UNDERSTANDING REGARDING  
25 ABANDONED WELLS. (a) In this section, "abandoned well" and  
26 "deteriorated well" have the meanings assigned by Section 1901.255.

27       (b) The Texas Commission on Environmental Quality and the

1 department shall by rule adopt or revise a joint memorandum of  
2 understanding to coordinate the efforts of the department,  
3 groundwater conservation districts, and the field offices of the  
4 Texas Commission on Environmental Quality relating to  
5 investigative procedures for referrals of complaints regarding  
6 abandoned and deteriorated wells.

7 (c) Each groundwater conservation district in which an  
8 abandoned or deteriorated well is located shall join the memorandum  
9 of understanding adopted under Subsection (b).

10 SECTION 19.016. Section 1901.301, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The  
13 commission [~~commissioner~~] may discipline a person under Section  
14 51.353 for a violation of this chapter or a rule adopted under this  
15 chapter, including:

16 (1) an intentional misstatement or misrepresentation  
17 of a fact on an application or well log or to a person for whom a  
18 well is being drilled, deepened, or otherwise altered;

19 (2) the failure to keep, deliver, or send a well log as  
20 required by Section 1901.251;

21 (3) the failure to advise a person for whom a well is  
22 being drilled that:

23 (A) injurious water has been encountered;

24 (B) the water is a pollution hazard; and

25 (C) the well must be immediately plugged in an  
26 acceptable manner; or

27 (4) the failure to complete a well in accordance with

1 standards and procedures adopted by the commission [~~commissioner~~].

2 SECTION 19.017. The following laws are repealed:

3 (1) Subdivision (2), Section 1901.001, Occupations  
4 Code;

5 (2) Subsection (e), Section 1901.109, Occupations  
6 Code;

7 (3) Subsection (b), Section 1901.155, Occupations  
8 Code;

9 (4) Section 1901.156, Occupations Code;

10 (5) Section 1901.157, Occupations Code;

11 (6) Section 1901.160, Occupations Code;

12 (7) Section 1901.205, Occupations Code;

13 (8) Section 1901.302, Occupations Code;

14 (9) Section 1901.303, Occupations Code;

15 (10) Section 1901.304, Occupations Code; and

16 (11) Subchapter H, Chapter 1901, Occupations Code.

17 SECTION 19.018. The changes in law made to Section  
18 1901.255, Occupations Code, by this article do not affect the  
19 status of a complaint, investigation, or other proceeding that  
20 commenced before September 1, 2003. A groundwater conservation  
21 district, as appropriate and without a change in status, assumes  
22 the position of the executive director of the Texas Department of  
23 Licensing and Regulation in an action or proceeding relating to a  
24 well located in the boundaries of that groundwater conservation  
25 district.

26 SECTION 19.019. The changes in law made by this article  
27 applying to members of the Texas Water Well Drillers Advisory



1 Council do not affect the entitlement of a member serving on the  
2 council immediately before September 1, 2003, to continue to serve  
3 and function as a member of the council for the remainder of the  
4 member's term. Those changes in law apply only to a member  
5 appointed on or after September 1, 2003.

6 ARTICLE 20. WATER WELL PUMP INSTALLERS

7 SECTION 20.001. Section 1902.001, Occupations Code, is  
8 amended by adding Subdivision (4-a) to read as follows:

9 (4-a) "Executive director" means the executive  
10 director of the department.

11 SECTION 20.002. Section 1902.051, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1902.051. LICENSING. (a) The department, with the  
14 advice of the council, shall prepare licensing examinations.

15 (b) The department shall ~~and~~ evaluate the qualifications  
16 of license applicants.

17 (c) ~~(b)~~ The executive director ~~[commissioner]~~ shall issue  
18 licenses to applicants who qualify.

19 SECTION 20.003. Section 1902.052, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1902.052. RULES. (a) The commission ~~[commissioner]~~  
22 shall adopt rules as necessary to enforce this chapter.

23 (b) The commission ~~[commissioner]~~ may not adopt a rule under  
24 this chapter that:

25 (1) regulates the installation or repair of well pumps  
26 and equipment by:

27 (A) a person on property the person owns or

1 controls for the person's own use;

2 (B) an employee of a person described by  
3 Paragraph (A); or

4 (C) a person who is not hired or compensated and  
5 who acts on behalf of a person described by Paragraph (A); or

6 (2) requires a person who owns or controls property or  
7 possesses a well to complete, repair, or retrofit the well to any  
8 standard other than a standard in effect at the time the well was  
9 originally completed unless the well is found to be a threat to  
10 public health and safety or to water quality.

11 SECTION 20.004. Subsection (b), Section 1902.152,  
12 Occupations Code, is amended to read as follows:

13 (b) An applicant must pay to the department an [~~a~~  
14 ~~nonrefundable~~] examination fee at the time the application is  
15 submitted.

16 SECTION 20.005. Section 1902.162, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
19 STATE. The commission [~~commissioner~~] may adopt rules allowing  
20 waiver of a license requirement for an applicant who is licensed in  
21 another state that has license requirements substantially  
22 equivalent to those of this state.

23 SECTION 20.006. Section 1902.251, Occupations Code, is  
24 amended to read as follows:

25 Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An  
26 installer shall install or repair pumps under standards and  
27 procedures adopted by the commission [~~commissioner~~] with the advice

1 of the council.

2 SECTION 20.007. Subsection (b), Section 1902.252,  
3 Occupations Code, is amended to read as follows:

4 (b) To avoid injury or pollution, the installer shall repair  
5 or properly complete the well under standards and procedures  
6 adopted by the commission [~~commissioner~~].

7 SECTION 20.008. The following laws are repealed:

8 (1) Subdivision (2), Section 1902.001, Occupations  
9 Code;

10 (2) Section 1902.101, Occupations Code;

11 (3) Subsection (b), Section 1902.155, Occupations  
12 Code;

13 (4) Section 1902.156, Occupations Code;

14 (5) Section 1902.157, Occupations Code;

15 (6) Section 1902.160, Occupations Code;

16 (7) Section 1902.204, Occupations Code; and

17 (8) Subchapters G and H, Chapter 1902, Occupations  
18 Code.

19 ARTICLE 21. WEATHER MODIFICATION; OCCUPATIONAL REGULATION

20 SECTION 21.001. Section 1.01, Chapter 376, Acts of the 77th  
21 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
22 Civil Statutes), is amended by amending Subdivision (1) and adding  
23 Subdivision (2-a) to read as follows:

24 (1) "Commission" [~~"Commissioner"~~] has the meaning  
25 assigned by Section 51.001, Occupations Code.

26 (2-a) "Executive director" means the executive  
27 director of the department.

1 SECTION 21.002. Article 1, Chapter 376, Acts of the 77th  
2 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
3 Civil Statutes), is amended by adding Section 1.02 to read as  
4 follows:

5 Sec. 1.02. APPLICABILITY OF OTHER LAW. Sections 51.404 and  
6 51.405, Occupations Code, do not apply to this article.

7 SECTION 21.003. Section 1.11, Chapter 376, Acts of the 77th  
8 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
9 Civil Statutes), is amended to read as follows:

10 Sec. 1.11. RULES. The commission [~~department~~] may adopt  
11 rules necessary to:

12 (1) exercise the powers and perform the duties under  
13 this article;

14 (2) establish procedures and conditions for the  
15 issuance of licenses and permits under this article; and

16 (3) establish standards and instructions to govern the  
17 carrying out of research or projects in weather modification and  
18 control that the commission [~~department~~] considers necessary or  
19 desirable to minimize danger to health or property.

20 SECTION 21.004. Section 1.13, Chapter 376, Acts of the 77th  
21 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
22 Civil Statutes), is amended to read as follows:

23 Sec. 1.13. ADVISORY COMMITTEES. The commission  
24 [~~department~~] may establish advisory committees to advise the  
25 commission [~~department~~] and to make recommendations to the  
26 commission [~~department~~] concerning legislation, policies,  
27 administration, research, and other matters related to the

1 department's duties, powers, or functions under this article. If  
2 the commission establishes an advisory committee under this  
3 section, the presiding officer of the commission, with the  
4 commission's approval, shall appoint a member of the committee to  
5 serve as the presiding officer of the committee for a two-year term.

6 SECTION 21.005. Section 1.16, Chapter 376, Acts of the 77th  
7 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
8 Civil Statutes), is amended to read as follows:

9 Sec. 1.16. INTERSTATE COMPACTS. The commission  
10 [~~commissioner~~] may represent the state in matters pertaining to  
11 plans, procedures, or negotiations for interstate compacts  
12 relating to weather modification and control.

13 SECTION 21.006. Subsection (b), Section 1.18, Chapter 376,  
14 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
15 Vernon's Texas Civil Statutes), is amended to read as follows:

16 (b) The department with approval of the commission  
17 [~~commissioner~~] may conduct and may contract for research and  
18 development activities relating to the purposes of this section.

19 SECTION 21.007. Section 1.31, Chapter 376, Acts of the 77th  
20 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
21 Civil Statutes), is amended to read as follows:

22 Sec. 1.31. LICENSE AND PERMIT REQUIRED. Except as provided  
23 by rule of the commission [~~department~~] under Section 1.32 of this  
24 article, a person may not engage in activities for weather  
25 modification and control:

26 (1) without a weather modification license and weather  
27 modification permit issued by the department; or

1           (2) in violation of any term or condition of the  
2 license or permit.

3           SECTION 21.008. Section 1.32, Chapter 376, Acts of the 77th  
4 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
5 Civil Statutes), is amended to read as follows:

6           Sec. 1.32. EXEMPTIONS. (a) The commission [~~department~~] by  
7 rule, to the extent it considers exemptions practical, shall  
8 provide for exempting the following activities from the license and  
9 permit requirements of this article:

10           (1) research, development, and experiments conducted  
11 by state and federal agencies, institutions of higher learning, and  
12 bona fide nonprofit research organizations;

13           (2) laboratory research and experiments;

14           (3) activities of an emergent nature for protection  
15 against fire, frost, sleet, or fog; and

16           (4) activities normally conducted for purposes other  
17 than inducing, increasing, decreasing, or preventing precipitation  
18 or hail.

19           (b) The commission [~~department~~] by rule may modify or revoke  
20 an exemption.

21           SECTION 21.009. Subsection (v), Section 1.41, Chapter 376,  
22 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
23 Vernon's Texas Civil Statutes), is amended to read as follows:

24           (v) The commission [~~department~~] by rule shall define hail  
25 suppression as used in this section, using the most current  
26 scientifically accepted technological concepts.

27           SECTION 21.010. Section 1.64, Chapter 376, Acts of the 77th

1 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
2 Civil Statutes), is amended to read as follows:

3       Sec. 1.64. PROCEDURES. The commission [~~department~~] by rule  
4 shall establish procedures for public notice and any public hearing  
5 under this subchapter.

6       SECTION 21.011. Section 1.65, Chapter 376, Acts of the 77th  
7 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
8 Civil Statutes), is amended to read as follows:

9       Sec. 1.65. HEARINGS. A hearing under this article  
10 [~~subchapter~~] shall be conducted in accordance with the hearing  
11 rules adopted by the commission [~~department~~] and the applicable  
12 provisions of Chapter 51, Occupations Code, and Chapter 2001,  
13 Government Code.

14       SECTION 21.012. Section 1.66, Chapter 376, Acts of the 77th  
15 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
16 Civil Statutes), is amended to read as follows:

17       Sec. 1.66. CONSENT. If a permit holder or license holder  
18 requests or consents to the revocation or suspension of the permit  
19 or license, the commission [~~commissioner~~] may revoke or suspend the  
20 permit or license without a hearing.

21       SECTION 21.013. The following laws are repealed:

22             (1) Section 1.34, Chapter 376, Acts of the 77th  
23 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
24 Civil Statutes);

25             (2) Section 1.38, Chapter 376, Acts of the 77th  
26 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
27 Civil Statutes); and

1           (3) Section 1.68, Chapter 376, Acts of the 77th  
2 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
3 Civil Statutes).

4           ARTICLE 22. WEATHER MODIFICATION; CONTROL GRANT PROGRAM

5           SECTION 22.001. Section 20.001, Agriculture Code, as added  
6 by Chapter 376, Acts of the 77th Legislature, Regular Session,  
7 2001, is amended to read as follows:

8           Sec. 20.001. FINDINGS. The legislature finds that weather  
9 modification and control activities may have a significant impact  
10 on Texas agriculture. The legislature further finds that the Texas  
11 Department of Licensing and Regulation [~~Agriculture~~] is the proper  
12 state agency to administer grants to political subdivisions for  
13 weather modification and control activities.

14           SECTION 22.002. Section 20.002, Agriculture Code, as added  
15 by Chapter 376, Acts of the 77th Legislature, Regular Session,  
16 2001, is amended to read as follows:

17           Sec. 20.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:

18                   (1) "Commission" means the Texas Commission of  
19 Licensing and Regulation.

20                   (2) "Department" means the Texas Department of  
21 Licensing and Regulation.

22                   (3) "Weather [~~,—"weather~~] modification and control"  
23 means changing or controlling, or attempting to change or control,  
24 by artificial methods the natural development of atmospheric cloud  
25 forms or precipitation forms that occur in the troposphere.

26           SECTION 22.003. Section 20.004, Agriculture Code, as added  
27 by Chapter 376, Acts of the 77th Legislature, Regular Session,



1 2001, is amended to read as follows:

2           Sec. 20.004. RULES. The commission [~~department~~] may adopt  
3 rules necessary to administer this chapter.

4           SECTION 22.004. (a) On the effective date of this Act, in  
5 accordance with the General Appropriations Act enacted by the 78th  
6 Legislature:

7                   (1) all powers, duties, obligations, rights, and  
8 contracts of the Department of Agriculture associated with the  
9 weather modification and control grant program are transferred to  
10 the Texas Department of Licensing and Regulation;

11                   (2) all authority to fill full-time equivalent  
12 positions to administer the weather modification and control grant  
13 program and all unspent and unobligated appropriations to and other  
14 money held by the Department of Agriculture in connection with the  
15 program are transferred to the Texas Department of Licensing and  
16 Regulation; and

17                   (3) all files, records, equipment, and other property  
18 of the Department of Agriculture that are used by that agency in  
19 connection with the administration of the weather modification and  
20 control grant program become the property of the Texas Department  
21 of Licensing and Regulation, but remain in the same location unless  
22 moved in accordance with the memorandum of understanding adopted  
23 under Subsection (b) of this section.

24           (b) The Department of Agriculture and the Texas Department  
25 of Licensing and Regulation shall adopt a memorandum of  
26 understanding not later than the 30th day after the effective date  
27 of this Act that provides for the transfer, by that date, of any

1 files, records, equipment, property, and personnel necessary to  
2 accomplish the transfer of the weather modification and control  
3 grant program from the Department of Agriculture to the Texas  
4 Department of Licensing and Regulation.

5 ARTICLE 23. VALET PARKING SERVICES FINANCIAL RESPONSIBILITY

6 SECTION 23.001. Section 2, Article 9035, Revised Statutes,  
7 is amended by adding Subdivision (10) to read as follows:

8 (10) "Vehicle protection service" means a valet  
9 parking service as defined by Section 686.001(3), Transportation  
10 Code.

11 SECTION 23.002. Subtitle H, Title 7, Transportation Code,  
12 is amended by adding Chapter 686 to read as follows:

13 CHAPTER 686. VALET PARKING SERVICES

14 Sec. 686.001. DEFINITIONS. In this chapter:

15 (1) "Financial responsibility" means the ability to  
16 respond in damages for liability for an accident that:

17 (A) occurs after the effective date of the  
18 document evidencing the establishment of the financial  
19 responsibility; and

20 (B) arises out of the operation of a motor  
21 vehicle by an employee of a valet parking service.

22 (2) "Public accommodation" means any:

23 (A) inn, hotel, or motel;

24 (B) restaurant, cafeteria, or other facility  
25 principally engaged in selling food for consumption on the  
26 premises;

27 (C) bar, nightclub, or other facility engaged in

1 selling alcoholic beverages for consumption on the premises;

2 (D) motion picture house, theater, concert hall,  
3 stadium, or other place of exhibition or entertainment; or

4 (E) other facility used by or open to members of  
5 the public.

6 (3) "Valet parking service" means a parking service  
7 through which the motor vehicles of patrons of a public  
8 accommodation are parked for a fee by a third party who is not an  
9 employee of the public accommodation.

10 Sec. 686.002. REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR  
11 VALET PARKING SERVICES. A person may not operate a valet parking  
12 service unless financial responsibility for each employee who  
13 operates a motor vehicle for the service is established through:

14 (1) a motor vehicle liability or comprehensive general  
15 liability and garage insurance policy in an amount established by  
16 Section 686.004;

17 (2) a surety bond filed under Section 601.121; or

18 (3) a deposit in the amount of \$450,000 under Section  
19 601.122, notwithstanding any other amount prescribed by that  
20 section.

21 Sec. 686.003. EVIDENCE OF FINANCIAL RESPONSIBILITY.

22 (a) The owner or operator of a valet parking service shall provide  
23 evidence of financial responsibility in the same manner as required  
24 under Section 601.053.

25 (b) In addition to complying with Subsection (a), an owner  
26 or operator of a valet parking service shall exhibit, for public  
27 inspection, evidence of financial responsibility at a public

1 accommodation whose patrons use the service.

2 Sec. 686.004. MINIMUM COVERAGE AMOUNTS. (a) The minimum  
3 amounts of motor vehicle liability insurance coverage required to  
4 establish financial responsibility under this chapter are:

5 (1) \$100,000 for bodily injury to or death of one  
6 person in one accident;

7 (2) \$300,000 for bodily injury to or death of two or  
8 more persons in one accident, subject to the amount provided by  
9 Subdivision (1) for bodily injury to or death of one of the persons;  
10 and

11 (3) \$50,000 for damage to or destruction of property  
12 of others in one accident.

13 (b) The comprehensive general liability insurance must be  
14 on a broad form and provide limits of liability for bodily injury  
15 and property damage of not less than \$300,000 combined single limit  
16 or the equivalent.

17 (c) The garage insurance must provide limits of liability  
18 for bodily injury and property damage of not less than \$300,000  
19 combined single limit, or the equivalent, and must provide the  
20 following coverages:

21 (1) comprehensive and collision coverage for physical  
22 damage;

23 (2) coverage for vehicle storage; and

24 (3) coverage for a vehicle driven by or at the  
25 direction of the valet parking service.

26 Sec. 686.005. COMMON LAW DEFENSES. In an action against an  
27 owner or operator of a valet parking service that has not

1 established financial responsibility as required by this chapter to  
2 recover damages for personal injuries, death, or property damage  
3 sustained in a motor vehicle accident arising out of the operation  
4 of a valet parking service, it is not a defense that the party who  
5 brings the action:

6 (1) was guilty of contributory negligence; or

7 (2) assumed the risk of injury, death, or property  
8 damage.

9 Sec. 686.006. OPERATION OF MOTOR VEHICLE IN VIOLATION OF  
10 FINANCIAL RESPONSIBILITY REQUIREMENT; OFFENSE. (a) A person  
11 commits an offense if the person, while in the course and scope of  
12 the person's employment with a valet parking service, operates a  
13 motor vehicle of a patron of the service without the financial  
14 responsibility required by this chapter.

15 (b) Except as provided by Subsections (c) and (d), an  
16 offense under this section is a misdemeanor punishable by a fine of  
17 not less than \$175 or more than \$350.

18 (c) If a person has been previously convicted of an offense  
19 under this section, an offense under this section is a misdemeanor  
20 punishable by a fine of not less than \$350 or more than \$1,000.

21 (d) If the court determines that a person who has not been  
22 previously convicted of an offense under this section is  
23 economically unable to pay the fine, the court may reduce the fine  
24 to not less than \$175.

25 Sec. 686.007. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT  
26 AT TIME OF ALLEGED OFFENSE. It is a defense to prosecution under  
27 Section 686.002 that the person charged produces one of the

1 documents listed in Section 601.053 that was valid at the time the  
2 offense is alleged to have occurred.

3 SECTION 23.003. (a) Except as provided in Subsection (d)  
4 of this section, this article takes effect March 1, 2004.

5 (b) The Texas Commission of Licensing and Regulation shall  
6 analyze the potential financial impact of Chapter 686,  
7 Transportation Code, as added by this article, on prices paid by  
8 consumers who use valet parking services. Not later than January 1,  
9 2004, the commission shall report to the secretary of state for  
10 publication in the Texas Register whether the commission's analysis  
11 concludes that implementation of Chapter 686, Transportation Code,  
12 would result in an increase of more than 25 percent in the average  
13 price paid by a consumer for valet parking services.

14 (c) Not later than February 1, 2004, the secretary of state  
15 shall publish the conclusion of the Texas Commission of Licensing  
16 and Regulation's analysis in the Texas Register.

17 (d) If the Texas Commission of Licensing and Regulation  
18 concludes that implementation of Chapter 686, Transportation Code,  
19 as added by this article, would result in an increase of more than  
20 25 percent in the average price paid by a consumer for valet parking  
21 services, this article has no effect.

22 ARTICLE 24. RENTAL-PURCHASE AGREEMENTS

23 SECTION 24.001. Section 35.71, Business & Commerce Code, is  
24 amended by adding Subdivision (3-a) to read as follows:

25 (3-a) "Loss damage waiver" means a merchant's  
26 agreement not to hold a consumer liable for loss from all or part of  
27 any damage to merchandise.

1 SECTION 24.002. Subsection (c), Section 35.72, Business &  
2 Commerce Code, is amended to read as follows:

3 (c) A rental-purchase agreement may not contain a  
4 provision:

5 (1) requiring a confession of judgment;

6 (2) authorizing a merchant or an agent of the  
7 merchant to commit a breach of the peace in the repossession of  
8 merchandise;

9 (3) waiving a defense, counterclaim, or right the  
10 consumer may have against the merchant or an agent of the merchant;

11 (4) requiring the purchase of insurance or a loss  
12 damage waiver from the merchant to cover the merchandise;

13 (5) requiring the payment of a late charge or  
14 reinstatement fee unless a periodic payment is delinquent for more  
15 than seven days if the payment is due monthly, or is delinquent for  
16 more than three days if the payment is due more frequently than  
17 monthly, and the charge or fee is in an amount equal to not more than  
18 the lesser of five percent of the delinquent payment or \$5, and not  
19 less than \$2; or

20 (6) requiring a payment at the end of the scheduled  
21 rental-purchase term in excess of or in addition to a regular  
22 periodic payment in order to acquire ownership of the merchandise.  
23 In no event shall the consumer be required to pay a sum greater than  
24 the total amount to be paid to acquire ownership, as disclosed in  
25 Subsection (g)(3) of this section.

26 SECTION 24.003. Subchapter F, Chapter 35, Business &  
27 Commerce Code, is amended by adding Sections 35.721 and 35.722 to

1 read as follows:

2 Sec. 35.721. LOSS DAMAGE WAIVER. (a) In addition to other  
3 charges permitted by this subchapter, a consumer may contract for a  
4 loss damage waiver. A loss damage waiver is not insurance.

5 (b) A merchant may not sell a loss damage waiver unless the  
6 consumer agrees to the waiver in writing. A merchant may not impose  
7 or require the purchase of a loss damage waiver as a mandatory  
8 charge.

9 (c) A loss damage waiver may exclude loss or damage to the  
10 merchandise that is caused by an unexplained disappearance or  
11 abandonment of the merchandise, or any other damage that is  
12 intentionally caused by the consumer or that results from the  
13 consumer's wilful or wanton misconduct.

14 (d) A loss damage waiver agreement must include a statement  
15 of the total charge for the loss damage waiver.

16 (e) A merchant may charge a periodic fee for a loss damage  
17 waiver that may not exceed 10 percent of the periodic rental  
18 payment.

19 (f) A contract that offers a loss damage waiver must include  
20 the following notice:

21 "This contract offers an optional loss damage waiver for an  
22 additional charge to cover your responsibility for loss of or  
23 damage to the merchandise. You do not have to purchase this  
24 coverage. Before deciding whether or not to purchase this loss  
25 damage waiver, you may consider whether your homeowners' or  
26 casualty insurance policy affords you coverage for loss of or  
27 damage to rental merchandise and the amount of the deductible you



1 would pay under your policy."

2 (g) A merchant may not sell a loss damage waiver unless the  
3 form of the contract containing the waiver has been approved by the  
4 Texas Department of Licensing and Regulation.

5 (h) The Texas Commission of Licensing and Regulation shall  
6 by rule:

7 (1) provide the method for annual submission of all  
8 contracts, including amendments to a contract, that contain a loss  
9 damage waiver, for review by the Texas Department of Licensing and  
10 Regulation; and

11 (2) set a reasonable fee to be paid by the merchant for  
12 the review of contract forms under Subdivision (1) and for the  
13 administration of this subchapter by the Texas Department of  
14 Licensing and Regulation.

15 Sec. 35.722. ENFORCEMENT; INVESTIGATION; HEARING. (a) In  
16 this section:

17 (1) "Commission" means the Texas Commission of  
18 Licensing and Regulation.

19 (2) "Department" means the Texas Department of  
20 Licensing and Regulation.

21 (b) The department shall enforce Section 35.721 and may, as  
22 necessary, investigate a merchant who has one or more contracts  
23 that include a loss damage waiver.

24 (c) A person may file a complaint alleging a violation of  
25 Section 35.721 with the department. The department shall  
26 investigate the alleged violation on receipt of the complaint, and  
27 may inspect any record relevant to the complaint.

1       (d) If, as a result of an investigation, the department  
2 determines that a violation may have occurred, the commission shall  
3 provide an opportunity for a hearing in the manner provided for a  
4 contested case under Chapter 2001, Government Code.

5       (e) If, after opportunity for hearing, the commission  
6 determines that the merchant has violated Section 35.721, the  
7 commission may:

8           (1) impose an administrative penalty under Chapter 51,  
9 Occupations Code; or

10          (2) award the complainant damages in an amount up to  
11 the amount of the contract price for the merchandise.

12       SECTION 24.004. The change in law made by this article  
13 applies only to a rental-purchase agreement entered into on or  
14 after the effective date of this Act. A rental-purchase agreement  
15 entered into before the effective date of this Act is governed by  
16 the law in effect on the date the rental-purchase agreement was  
17 entered into, and the former law is continued in effect for that  
18 purpose.

19           ARTICLE 25. ON-LINE LICENSE INFORMATION

20       SECTION 25.001. Subchapter I, Chapter 2054, Government  
21 Code, as added by Chapter 353, Acts of the 77th Legislature, Regular  
22 Session, 2001, is amended by adding Sections 2054.255 and 2054.256  
23 to read as follows:

24       Sec. 2054.255. CHANGE OF ADDRESS AND OTHER INFORMATION.

25       (a) The system adopted under Section 2054.253, as added by Chapter  
26 353, Acts of the 77th Legislature, Regular Session, 2001, must  
27 allow a person regulated by one or more licensing authorities to

1 file a single change of address on-line with the department. The  
2 department shall provide the new address to each appropriate  
3 licensing authority.

4 (b) The department may expand the system to include  
5 additional categories of updated information that license holders  
6 may need to provide to more than one licensing authority.

7 (c) If the department uses TexasOnline to implement the  
8 system, the department may recover costs incurred under this  
9 section as provided by Section 2054.252, as added by Chapter 342,  
10 Acts of the 77th Legislature, Regular Session, 2001.

11 Sec. 2054.256. SHARING OF INFORMATION. (a) Each licensing  
12 authority shall electronically share information regarding license  
13 holders, especially information regarding disciplinary  
14 information, with other licensing authorities to the extent it is  
15 feasible to do so and allowed by other law, under appropriate  
16 controls for the privacy, security, accuracy, and, when applicable,  
17 confidentiality of the information.

18 (b) A licensing authority may only use information it  
19 receives electronically under this section for regulatory  
20 purposes.

21 ARTICLE 26. GENERAL CONFORMING AMENDMENTS

22 SECTION 26.001. Section 57.044, Government Code, is amended  
23 to read as follows:

24 Sec. 57.044. COURT INTERPRETER LICENSE. To qualify for a  
25 court interpreter license under this subchapter, an individual must  
26 apply on a form prescribed by the executive director [~~commissioner~~]  
27 and demonstrate, in the manner required by the executive director

1 ~~[commissioner]~~, reasonable proficiency in interpreting English and  
2 court proceedings for individuals who can hear but who do not  
3 comprehend English or communicate in English.

4 SECTION 26.002. Subsections (a) and (c), Section 57.046,  
5 Government Code, are amended to read as follows:

6 (a) The executive director ~~[commissioner]~~ shall prepare  
7 examinations under this subchapter that test an applicant's  
8 knowledge, skill, and efficiency in interpreting under this  
9 subchapter.

10 (c) Examinations shall be offered in the state at least  
11 twice a year at times and places designated by the executive  
12 director ~~[commissioner]~~.

13 SECTION 26.003. The heading to Section 57.047, Government  
14 Code, is amended to read as follows:

15 Sec. 57.047. [~~COMMISSIONER~~ ~~AND~~] DEPARTMENT DUTIES;  
16 INSPECTIONS.

17 SECTION 26.004. Subsection (a), Section 57.047, Government  
18 Code, is amended to read as follows:

19 (a) The executive director ~~[commissioner]~~ shall enforce  
20 this subchapter.

21 SECTION 26.005. Section 754.020, Health and Safety Code, is  
22 amended to read as follows:

23 Sec. 754.020. DEPOSIT OF FEES. Fees collected under this  
24 subchapter shall be deposited to the credit of an account in the  
25 general revenue fund that may be used by the executive director  
26 ~~[commissioner]~~ only to administer and enforce this subchapter and  
27 to reimburse expenses of board members provided by this subchapter.

1 SECTION 26.006. Section 754.021, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The executive  
4 director [~~commissioner~~] may:

5 (1) compile a list of ASME-QEI-1 certified inspectors  
6 who are registered with the department to perform an inspection  
7 under this subchapter; and

8 (2) employ personnel as necessary to enforce this  
9 subchapter.

10 SECTION 26.007. Section 754.022, Health and Safety Code, is  
11 amended to read as follows:

12 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the executive  
13 director [~~commissioner~~] learns of a situation of noncompliance  
14 under Section 754.019, the executive director [~~commissioner~~] shall  
15 send notice by certified mail of the noncompliance and the actions  
16 required to remedy the noncompliance to the record owner of the real  
17 property on which the equipment that is the subject of the  
18 noncompliance is located.

19 SECTION 26.008. Subsections (a), (c), and (d), Section  
20 755.023, Health and Safety Code, are amended to read as follows:

21 (a) The executive director [~~commissioner~~] shall appoint a  
22 chief inspector of boilers to administer the boiler program. The  
23 chief inspector must:

24 (1) be a resident of this state and a citizen of the  
25 United States;

26 (2) have at least five years' experience in the  
27 construction, installation, inspection, operation, maintenance, or

1 repair of boilers; and

2 (3) pass a written examination that demonstrates the  
3 necessary ability to judge the safety of boilers.

4 (c) As needed, the executive director [~~commissioner~~] shall  
5 appoint persons with qualifications similar to those of the chief  
6 inspector to serve as deputy inspectors.

7 (d) The executive director [~~commissioner~~] may employ  
8 clerical assistants as necessary to carry out this chapter.

9 SECTION 26.009. Subsections (a), (b), (f), and (g), Section  
10 755.024, Health and Safety Code, are amended to read as follows:

11 (a) To be an authorized inspector, a person must obtain a  
12 commission as a boiler inspector from the executive director  
13 [~~commissioner~~] and must be continuously employed by an inspection  
14 agency.

15 (b) The executive director [~~commissioner~~], by written  
16 examination, shall determine the qualifications of an applicant for  
17 a commission to be an authorized inspector.

18 (f) After proper investigation, the executive director  
19 [~~commissioner~~] may accept an inspection commission issued to a  
20 person by any other jurisdiction that has a written examination  
21 equal to that of this state.

22 (g) For good cause, the executive director [~~commissioner~~]  
23 may rescind a commission issued by this state.

24 SECTION 26.010. Subsections (a), (f), and (g), Section  
25 755.025, Health and Safety Code, are amended to read as follows:

26 (a) The executive director [~~commissioner~~] shall require  
27 each boiler to be inspected internally and externally at the time of

1 initial installation and at subsequent intervals as provided by  
2 this section. The executive director [~~commissioner~~] may provide  
3 that the inspection be performed by any inspector.

4 (f) The executive director [~~commissioner~~] shall designate  
5 the manner of inspection for nuclear boilers, the form of the  
6 inspection report, and the information to be reported. The  
7 executive director [~~commissioner~~] and the owner of a nuclear boiler  
8 shall establish the intervals of inspection for the boiler.

9 (g) The executive director [~~commissioner~~] may authorize the  
10 inspection of a boiler at any reasonable time if the executive  
11 director [~~commissioner~~] determines that the boiler may be in an  
12 unsafe condition. The executive director [~~commissioner~~] shall  
13 notify the inspection agency that insures that boiler and request  
14 the authorized inspector employed by that agency to participate  
15 with the chief inspector or a deputy inspector in a joint inspection  
16 of the boiler not later than the 20th day after the date on which the  
17 executive director [~~commissioner~~] notifies the inspection agency.  
18 An additional charge may not be made for the joint inspection.

19 SECTION 26.011. Subsections (a), (c), (d), and (e), Section  
20 755.026, Health and Safety Code, are amended to read as follows:

21 (a) With the approval of the executive director  
22 [~~commissioner~~] and the inspection agency that has jurisdiction for  
23 the power boiler, the interval between internal inspections may be  
24 extended to a period not exceeding a total of 48 months. For other  
25 unfired steam boilers or steam collection or liberation drums of  
26 process steam generators, the inspection interval may be extended  
27 to the next scheduled downtime of the boiler, but not exceeding a

1 total of 84 months.

2 (c) The executive director [~~commissioner~~] and the  
3 inspection agency may grant an additional extension for a period  
4 not exceeding 120 days to the inspection interval covered by the  
5 boiler's certificate of operation on receipt of a request for  
6 extension stating that an emergency exists. Before the extension  
7 may be granted, the inspection agency must make an external  
8 inspection of the boiler, and the conditions imposed under  
9 Subsection (b) must be met.

10 (d) If an extended period between internal inspections is  
11 approved by the executive director [~~commissioner~~] and the  
12 inspection agency, the executive director [~~commissioner~~] shall  
13 issue a new certificate of operation for the extended period of  
14 operation.

15 (e) If the interval between internal inspections of a gas  
16 fired boiler is extended under Subsection (a), the executive  
17 director [~~commissioner~~] and inspection agency shall require that an  
18 inspection of the gas regulator or pressure reducing valve that  
19 services the boiler be performed as part of the next regularly  
20 scheduled external certificate inspection of the boiler to verify  
21 proper venting of gas to a safe point of discharge.

22 SECTION 26.012. Subsections (a) and (c), Section 755.027,  
23 Health and Safety Code, are amended to read as follows:

24 (a) Not later than the 30th day after the date on which a  
25 certificate inspection is performed by an authorized inspector, the  
26 inspection agency employing the authorized inspector shall file a  
27 report with the executive director [~~commissioner~~] in the manner



1 specified by the executive director [~~department~~].

2 (c) An inspection agency shall notify the executive  
3 director [~~commissioner~~] in writing of the cancellation or  
4 expiration of any insurance policy issued by that agency to cover a  
5 boiler located in this state, and shall include in the notice the  
6 reason for the cancellation or expiration. The notice must state  
7 the date the policy was issued and the date on which the  
8 cancellation or expiration takes effect.

9 SECTION 26.013. Section 755.028, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 755.028. SPECIAL INSPECTIONS. The executive director  
12 [~~commissioner~~] may provide a special inspection service to the  
13 owners, operators, and manufacturers of boilers. The service may  
14 include surveys required for certification to construct, assemble,  
15 or repair boilers or pressure vessels.

16 SECTION 26.014. Subsection (a), Section 755.029, Health and  
17 Safety Code, is amended to read as follows:

18 (a) The executive director [~~commissioner~~] shall issue to  
19 the owner or operator of a boiler a certificate of operation for the  
20 boiler if after a certificate inspection:

21 (1) the boiler is found to be in a safe condition for  
22 operation; and

23 (2) the owner or operator has paid the fees assessed  
24 under Section 755.030.

25 SECTION 26.015. Section 755.042, Health and Safety Code, is  
26 amended to read as follows:

27 Sec. 755.042. PROSECUTION; INJUNCTION. (a) A prosecution

1 may not be maintained if the issuance or renewal of a certificate of  
2 operation has been requested for a boiler but has not been acted on.  
3 However, the executive director [~~commissioner~~] may petition a  
4 district court for an injunction to restrain the operation of the  
5 boiler until the condition restraining its use is corrected and a  
6 certificate of operation is issued if the executive director  
7 [~~commissioner~~] determines that the operation of the boiler without  
8 a certificate of operation constitutes a serious menace to the life  
9 and safety of the persons in or about the premises. The attorney  
10 general or the district or county attorney may bring the suit, and  
11 venue is in the county in which the boiler is located or in Travis  
12 County. It is not necessary for the prosecutor to verify the  
13 pleadings or for the state to execute a bond.

14 (b) The executive director's [~~commissioner's~~] affidavit  
15 that a certificate of operation or an application for a certificate  
16 does not exist for a boiler, and the affidavit of the chief  
17 inspector or a deputy inspector that the operation of the boiler  
18 constitutes a menace to the life and safety of persons in or about  
19 the premises, are sufficient proof to warrant the immediate  
20 issuance of a temporary restraining order.

21 SECTION 26.016. Subsection (a), Section 91.003, Labor Code,  
22 is amended to read as follows:

23 (a) Each state agency that in performing duties under other  
24 law affects the regulation of staff leasing services shall  
25 cooperate with the department [~~the commissioner,~~] and other state  
26 agencies as necessary to implement and enforce this chapter.

27 SECTION 26.017. Subsection (c), Section 91.015, Labor Code,

1 is amended to read as follows:

2 (c) Before denying a license application, the department  
3 shall provide written notice to an applicant specifying the reasons  
4 for the denial. The department shall provide the applicant at least  
5 30 days after the date of the notice to address the reasons for the  
6 denial. For good cause and on a showing of a good faith effort to  
7 remedy the reasons for the denial, the executive director  
8 [~~commissioner~~] may grant an additional 30 days to remedy the  
9 reasons for denial.

10 SECTION 26.018. Section 91.048, Labor Code, is amended to  
11 read as follows:

12 Sec. 91.048. REQUIRED INFORMATION. Each license holder  
13 shall:

14 (1) maintain adequate books and records regarding the  
15 license holder's duties and responsibilities;

16 (2) maintain and make available at all times to the  
17 executive director [~~commissioner~~] the following information, which  
18 shall be treated as proprietary and confidential and is exempt from  
19 disclosure to persons other than other governmental agencies having  
20 a reasonable, legitimate purpose for obtaining the information:

21 (A) the correct name, address, and telephone  
22 number of each client company;

23 (B) each client company contract; and

24 (C) a listing by classification code as described  
25 in the "Standard Industrial Classification Manual" published by the  
26 United States Office of Management and Budget, of each client  
27 company;

1           (3) notify the department of any addition or deletion  
2 of a controlling person as listed on the license application or  
3 renewal form by providing the name of the person not later than the  
4 45th day after the date on which the person is added or deleted as a  
5 controlling person; and

6           (4) provide a biographical history to the department  
7 in connection with the addition of a new controlling person.

8           SECTION 26.019. Subsection (a), Section 91.062, Labor Code,  
9 is amended to read as follows:

10          (a) The executive director [~~commissioner~~] may notify the  
11 attorney general of a violation of this chapter. The attorney  
12 general may apply to a district court in Travis County for  
13 permission to file for quo warranto relief, injunctive relief, or  
14 both.

15          SECTION 26.020. Subsection (a), Section 92.014, Labor Code,  
16 is amended to read as follows:

17          (a) The department shall issue a temporary common worker  
18 employer license to a person who meets the application requirements  
19 established by the executive director [~~commissioner~~] and pays the  
20 application and registration fees set by the commission.

21          SECTION 26.021. Subsection (a), Section 92.031, Labor Code,  
22 is amended to read as follows:

23          (a) A person commits an offense if the person knowingly or  
24 intentionally violates:

25               (1) this chapter;

26               (2) a rule adopted under this chapter; or

27               (3) an administrative order adopted [~~by the~~

1 ~~commissioner~~] under this chapter.

2 SECTION 26.022. Subsections (a) and (c), Section 1152.154,  
3 Occupations Code, are amended to read as follows:

4 (a) An applicant for registration must file an application  
5 with the department on a printed form prescribed by the executive  
6 director [~~commissioner~~].

7 (c) The department shall refund the registration fee if the  
8 executive director [~~commissioner~~] does not approve the  
9 application.

10 SECTION 26.023. Section 1152.156, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX  
13 CONSULTANT. (a) In addition to satisfying the requirements of  
14 Section 1152.155, an applicant for registration as a property tax  
15 consultant must:

16 (1) complete at least 15 classroom hours of  
17 educational courses approved by the executive director  
18 [~~commissioner~~], including at least four hours of instruction on  
19 laws and legal issues in this state related to property tax  
20 consulting services; or

21 (2) if the person is eligible for registration under  
22 Section 1152.155(b), submit to the commission evidence that the  
23 applicant has completed at least four classroom hours of  
24 educational programs or courses on the laws and legal issues in this  
25 state related to property tax consulting services.

26 (b) The executive director [~~commissioner~~] may give  
27 appropriate credit to an initial applicant for:

1           (1) educational courses on principles of law related  
2 to property tax consulting services completed by the applicant not  
3 more than two years before the date of application; and

4           (2) educational programs or courses completed by the  
5 applicant on:

6                   (A) property taxation;

7                   (B) the property tax system;

8                   (C) property tax administration;

9                   (D) ethical standards; or

10                   (E) general principles of appraisal, accounting,  
11 or law as they relate to property tax consulting services.

12           SECTION 26.024. Section 1152.159, Occupations Code, is  
13 amended to read as follows:

14           Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT  
15 APPLICANTS. (a) The executive director [~~commissioner~~] shall  
16 grant credit to an applicant for registration as a senior property  
17 tax consultant as follows:

18                   (1) two credits for each year the applicant completed  
19 at an institution of higher education that meets program and  
20 accreditation standards comparable to those for public  
21 institutions of higher education as determined by the Texas Higher  
22 Education Coordinating Board, not to exceed six credits;

23                   (2) four credits to an applicant who holds a bachelor's  
24 degree or equivalent from an institution of higher education  
25 described by Subdivision (1); and

26                   (3) one credit for each year in excess of five years  
27 that the applicant's primary occupation involved the performance or

1 supervision of property tax consulting services or property  
2 appraisal, assessment, or taxation, not to exceed 10 credits.

3 (b) The executive director [~~commissioner~~] may grant  
4 additional credits to an applicant for registration as a senior  
5 property tax consultant for:

6 (1) successful completion of educational programs or  
7 courses on:

8 (A) property taxation;

9 (B) the property tax system;

10 (C) property tax administration;

11 (D) ethical standards; or

12 (E) general principles of appraisal, accounting,  
13 and law as they relate to property tax consulting services;

14 (2) completion of other educational programs or  
15 courses; or

16 (3) advanced or postgraduate educational achievement,  
17 occupational experience, professional licenses, or professional  
18 designations obtained from recognized associations, institutes, or  
19 organizations.

20 (c) The executive director [~~commissioner~~] may assign not  
21 less than one credit or more than five credits to a program or  
22 course described by Subsection (b)(1). In determining the amount  
23 of credit for the program or course, the executive director  
24 [~~commissioner~~] shall consider:

25 (1) the nature of the program or course;

26 (2) the number of actual instructional hours in the  
27 program or course;

1 (3) whether an examination is required for successful  
2 completion of the program or course; and

3 (4) other factors the executive director  
4 [~~commissioner~~] determines appropriate.

5 SECTION 26.025. Section 1152.162, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION.

8 (a) The executive director [~~commissioner~~] shall act on an initial  
9 application for registration filed under Section 1152.154 not later  
10 than the 31st day after the date the department receives the  
11 application.

12 (b) The executive director [~~commissioner~~] shall issue to an  
13 applicant who qualifies for registration the appropriate  
14 certificate of registration.

15 SECTION 26.026. Section 1202.055, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1202.055. SECRETARY; PERSONNEL. The executive  
18 director [~~commissioner~~] shall:

19 (1) act as secretary of the council; and

20 (2) provide personnel from the department necessary to  
21 perform staff functions for the council.

22 SECTION 26.027. Subsections (b) and (c), Section 1202.105,  
23 Occupations Code, are amended to read as follows:

24 (b) The executive director [~~commissioner~~] shall recommend  
25 qualified third-party inspectors and design review agencies to the  
26 council.

27 (c) The executive director [~~commissioner~~] shall publish a



1 list of all approved inspectors and design review agencies.

2 SECTION 26.028. Subdivision (12), Section 1302.002,  
3 Occupations Code, is amended to conform to Section 1, Chapter 790,  
4 Acts of the 77th Legislature, Regular Session, 2001, to read as  
5 follows:

6 (12) "Mechanical integrity" means the condition of a  
7 product, a system, or equipment installed in accordance with its  
8 intended purpose and according to:

9 (A) standards at least as strict as the standards  
10 provided by:

11 (i) the Uniform Mechanical Code [~~published~~  
12 ~~jointly by the International Conference of Building Officials and~~  
13 ~~the International Association of Plumbing and Mechanical~~  
14 ~~Officials, or their successor organizations~~]; and [~~or~~]

15 (ii) the International [~~Standard~~]  
16 Mechanical Code [~~published by the Southern Building Code Congress~~  
17 ~~International, Inc., or its successor organization~~];

18 (B) all other applicable codes; and

19 (C) the manufacturer's specifications.

20 SECTION 26.029. Section 1302.102, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive  
23 director [~~commissioner~~] shall set insurance requirements for a  
24 license holder under this chapter.

25 (b) The executive director [~~commissioner~~] may waive the  
26 insurance requirements for a license holder who does not engage in  
27 air conditioning and refrigeration contracting for the public.

1 SECTION 26.030. Section 1302.151, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The  
4 executive director [~~commissioner~~] shall prepare information of  
5 consumer interest describing:

6 (1) the functions performed by the executive director  
7 [~~commissioner~~] under this chapter; and

8 (2) the rights of a consumer affected by this chapter.

9 (b) The information must describe the procedure by which a  
10 consumer complaint is filed with and resolved by the executive  
11 director [~~commissioner~~].

12 (c) The executive director [~~commissioner~~] shall make the  
13 information available to the public.

14 SECTION 26.031. Section 1302.203, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1302.203. EX OFFICIO MEMBERS. The executive director  
17 [~~commissioner~~] and the chief administrator of this chapter serve as  
18 ex officio, nonvoting members of the advisory board.

19 SECTION 26.032. Subsection (a), Section 1302.253,  
20 Occupations Code, is amended to read as follows:

21 (a) The executive director [~~commissioner~~] shall issue a  
22 Class A or Class B air conditioning and refrigeration contractor  
23 license.

24 SECTION 26.033. Subsections (a) and (c), Section 1302.256,  
25 Occupations Code, are amended to read as follows:

26 (a) An applicant for a license must submit a verified  
27 application on a form prescribed by the executive director

1 ~~[commissioner]~~.

2 (c) The application must be accompanied by:

3 (1) a statement containing evidence satisfactory to  
4 the executive director ~~[commissioner]~~ of the applicant's practical  
5 experience required by Section 1302.255(a)(2); and

6 (2) the examination fee.

7 SECTION 26.034. Section 1302.257, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1302.257. EXAMINATIONS. (a) The executive director  
10 ~~[commissioner]~~ shall prescribe:

11 (1) a separate examination for each class of license;  
12 and

13 (2) within each class of license, a separate  
14 examination for:

15 (A) an environmental air conditioning  
16 endorsement; and

17 (B) a commercial refrigeration and process  
18 cooling or heating endorsement.

19 (b) The executive director ~~[commissioner]~~ shall prescribe  
20 the method and content of an examination administered under this  
21 chapter and shall set compliance requirements for the examination.  
22 To obtain an endorsement, an applicant must pass the examination  
23 for the endorsement.

24 (c) The examination shall be offered on a monthly basis or  
25 more frequently as determined by the executive director  
26 ~~[commissioner]~~.

27 (d) The examination shall be offered at locations within the

1 state as determined by the executive director [~~commissioner~~]. The  
2 examination may be offered by computer at locations within the  
3 state as determined by the executive director [~~commissioner~~].

4 SECTION 26.035. Subsection (a), Section 1302.260,  
5 Occupations Code, is amended to read as follows:

6 (a) On payment of the license fee, the executive director  
7 [~~commissioner~~] shall issue an air conditioning and refrigeration  
8 contractor license to an applicant who:

9 (1) meets the requirements of this subchapter;

10 (2) provides evidence of insurance coverage required  
11 by the executive director [~~commissioner~~] in accordance with this  
12 chapter; and

13 (3) passes the applicable examination.

14 SECTION 26.036. Subsection (b), Section 1302.303,  
15 Occupations Code, is amended to read as follows:

16 (b) The municipality shall report a violation of the  
17 ordinance to the executive director [~~commissioner~~] not later than  
18 the 10th day after the date the municipality acts to enforce the  
19 ordinance.

20 SECTION 26.037. Section 1302.451, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS.

23 (a) The executive director [~~commissioner~~] may issue an emergency  
24 order as necessary to enforce this chapter if the executive  
25 director [~~commissioner~~] determines that an emergency exists  
26 requiring immediate action to protect the public health and safety.

27 (b) The executive director [~~commissioner~~] may issue the

1 emergency order without notice and hearing or with any notice and  
2 hearing the executive director [~~commissioner~~] considers  
3 practicable under the circumstances. The executive director  
4 [~~commissioner~~] shall set the time and place for a hearing to affirm,  
5 modify, or set aside an emergency order that was issued without a  
6 hearing.

7 (c) The executive director [~~commissioner~~] may issue a cease  
8 and desist order.

9 SECTION 26.038. Section 1304.007, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE  
12 DIRECTOR [~~COMMISSIONER~~]. (a) The executive director  
13 [~~commissioner~~] may investigate a provider, administrator, or other  
14 person as necessary to enforce this chapter and protect service  
15 contract holders in this state.

16 (b) On request of the executive director [~~commissioner~~], a  
17 provider shall make the records required by Section 1304.155  
18 available to the executive director [~~commissioner~~] as necessary to  
19 enable the executive director [~~commissioner~~] to reasonably  
20 determine compliance with this chapter.

21 SECTION 26.039. Section 1304.102, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An  
24 applicant for registration must submit an application to the  
25 executive director [~~commissioner~~].

26 (b) The application must:

27 (1) be in the form prescribed by the executive

1 director [~~commissioner~~]; and

2 (2) include evidence satisfactory to the executive  
3 director [~~commissioner~~] of compliance with the applicable  
4 financial security requirements prescribed by Section 1304.151.

5 SECTION 26.040. Section 1304.104, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE  
8 CONTRACTS SOLD. Information concerning the number of service  
9 contracts sold by a provider that is submitted under Section  
10 1304.103:

11 (1) is a trade secret to which Section 552.110,  
12 Government Code, applies; and

13 (2) may be used only by the executive director  
14 [~~commissioner~~] and the department in developing the tiered fee  
15 schedule under Section 1304.103.

16 SECTION 26.041. Subsection (b), Section 1304.152,  
17 Occupations Code, is amended to read as follows:

18 (b) The insurer may not cancel the policy until the insurer  
19 delivers to the provider a written notice of cancellation that  
20 complies with the notice requirements prescribed by Articles  
21 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an  
22 insurance policy under those articles. The provider shall forward  
23 a copy of the cancellation notice to the executive director  
24 [~~commissioner~~] not later than the 15th business day after the date  
25 the notice is delivered to the provider. Cancellation of the policy  
26 does not reduce the insurer's responsibility for a service contract  
27 issued by the provider and insured under the policy before the date

1 of the cancellation.

2 SECTION 26.042. Subsections (b) and (d), Section 1304.155,  
3 Occupations Code, are amended to read as follows:

4 (b) The records required by this section may be maintained  
5 in an electronic medium or through other recordkeeping technology.  
6 If a record is not in a hard copy, the provider must be able to  
7 reformat the record into a legible hard copy at the request of the  
8 executive director [~~commissioner~~].

9 (d) A provider that discontinues business in this state  
10 shall retain its records until the provider furnishes the executive  
11 director [~~commissioner~~] with proof satisfactory to the executive  
12 director [~~commissioner~~] that the provider has discharged all  
13 obligations to service contract holders in this state.

14 SECTION 26.043. Section 1304.202, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
17 executive director [~~commissioner~~] may institute an action under  
18 Section 51.352 for injunctive relief to restrain a violation or a  
19 threatened violation of this chapter or an order issued or rule  
20 adopted under this chapter.

21 (b) In addition to the injunctive relief provided by  
22 Subsection (a), the executive director [~~commissioner~~] may  
23 institute an action for a civil penalty as provided by Section  
24 51.352. The amount of a civil penalty assessed under this section  
25 may not exceed:

- 26 (1) \$2,500 for each violation; or  
27 (2) \$50,000 in the aggregate for all violations of a

1 similar nature.

2 SECTION 26.044. Section 1802.002, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1802.002. APPLICABILITY. This chapter does not apply  
5 to:

6 (1) a sale conducted by order of a United States court  
7 under Title 11, United States Code;

8 (2) a sale conducted by an employee of the United  
9 States, this state, or a political subdivision of this state in the  
10 course and scope of employment;

11 (3) a sale conducted by a charitable or nonprofit  
12 organization, if the auctioneer receives no compensation;

13 (4) a sale conducted by an individual of the  
14 individual's property if the individual is not engaged in the  
15 business of selling property as an auctioneer on a recurring basis;

16 (5) a foreclosure sale of real property personally  
17 conducted by a trustee under a deed of trust;

18 (6) a foreclosure sale of personal property personally  
19 conducted by:

20 (A) a person who holds a security interest in the  
21 property, including a mortgage; or

22 (B) an employee or agent of a person described by  
23 Paragraph (A) acting in the course and scope of employment, if:

24 (i) the employee or agent is not otherwise  
25 engaged in the auction business; and

26 (ii) all property for sale in the auction is  
27 subject to a security agreement;



1 (7) a sale conducted by sealed bid;

2 (8) an auction conducted only for student training  
3 purposes as part of a course of study approved by the executive  
4 director [~~commissioner~~] for auctioneers;

5 (9) an auction conducted by a posted stockyard or  
6 market agency as defined by the federal Packers and Stockyards Act  
7 (7 U.S.C. Section 181 et seq.), as amended;

8 (10) an auction of livestock conducted by a nonprofit  
9 livestock trade association chartered in this state, if the auction  
10 involves only the sale of livestock owned by members of the trade  
11 association; or

12 (11) an auction conducted by a charitable or nonprofit  
13 organization chartered in this state, if the auction:

14 (A) is part of a fair that is organized under  
15 state, county, or municipal authority; and

16 (B) involves only the sale of property owned by  
17 the organization's members.

18 SECTION 26.045. Subsection (a), Section 1802.051,  
19 Occupations Code, is amended to read as follows:

20 (a) A person may not act as an auctioneer or associate  
21 auctioneer in an auction held in this state unless the person is an  
22 individual who holds a license issued by the executive director  
23 [~~commissioner~~] under this chapter.

24 SECTION 26.046. Section 1802.054, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a  
27 license must apply to the executive director [~~commissioner~~] on a

1 form provided by the executive director [~~commissioner~~] that  
2 establishes the applicant's eligibility for the license. The  
3 application must be accompanied by:

- 4 (1) the required bond;
- 5 (2) the required license fee; and
- 6 (3) either:

7 (A) the permit number of a sales tax permit  
8 issued to the applicant by the comptroller under Subchapter F,  
9 Chapter 151, Tax Code; or

10 (B) proof of exemption from the tax permit  
11 requirement under Chapter 151, Tax Code.

12 SECTION 26.047. Subsections (a) and (b), Section 1802.055,  
13 Occupations Code, are amended to read as follows:

14 (a) An individual who establishes that the individual is  
15 eligible for an auctioneer's license may apply to the executive  
16 director [~~commissioner~~] to take the license examination. The  
17 application must be accompanied by the examination fee.

18 (b) On receipt of an examination application and fee, the  
19 executive director [~~commissioner~~] shall furnish the applicant  
20 with:

21 (1) study materials and references on which the  
22 examination will be based; and

23 (2) a schedule specifying the dates and places the  
24 examination will be offered.

25 SECTION 26.048. Subsections (b) and (c), Section 1802.056,  
26 Occupations Code, are amended to read as follows:

27 (b) The license examination shall be offered at least four

1 times each year at locations designated by the executive director  
2 [~~commissioner~~].

3 (c) The executive director [~~commissioner~~] shall prepare:

4 (1) examinations for an auctioneer's license; and

5 (2) study and reference materials on which the  
6 examinations are based.

7 SECTION 26.049. Subsection (a), Section 1802.152,  
8 Occupations Code, is amended to read as follows:

9 (a) The department is the manager of the fund and shall:

10 (1) administer the fund without appropriation;

11 (2) maintain books and records as required by the  
12 executive director [~~commissioner~~];

13 (3) appear at hearings or judicial proceedings; and

14 (4) invest and reinvest the fund's assets as  
15 instructed by the executive director [~~commissioner~~].

16 SECTION 26.050. Subsection (b), Section 1802.155,  
17 Occupations Code, is amended to read as follows:

18 (b) If the fund contains insufficient assets to pay the  
19 consumer:

20 (1) the department shall record the time and date an  
21 order for payment to a consumer was received; and

22 (2) the executive director [~~commissioner~~] shall pay  
23 consumers for whom an order is recorded under Subdivision (1) as  
24 funds become available in the order of the recorded time and date of  
25 the order.

26 SECTION 26.051. Section 1802.156, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The  
2 executive director [~~commissioner~~] may use amounts in excess of  
3 \$250,000 in the fund to:

4           (1) advance education and research in the  
5 auctioneering profession for the benefit of license holders and to  
6 improve and increase the efficiency of the industry;

7           (2) underwrite educational seminars, training  
8 centers, and other educational projects for the use and benefit of  
9 license holders;

10           (3) sponsor, contract, and underwrite other  
11 educational and research projects that advance the auctioneering  
12 profession in this state; and

13           (4) cooperate with associations of auctioneers and  
14 other groups for the education and advancement of the auctioneering  
15 profession in this state.

16           SECTION 26.052. Subsections (a) and (b), Section 1802.205,  
17 Occupations Code, are amended to read as follows:

18           (a) If the department's determination under Section  
19 1802.202 is not disputed by the auctioneer or the aggrieved party,  
20 the executive director [~~commissioner~~] shall pay the claim from the  
21 fund, subject to Section 1802.206.

22           (b) If a hearing is held on the department's determination,  
23 the executive director [~~commissioner~~] shall pay to the aggrieved  
24 party the amount of actual damages determined by the executive  
25 director [~~commissioner~~].

26           SECTION 26.053. Subsection (a), Section 1802.206,  
27 Occupations Code, is amended to read as follows:

1           (a) The executive director [~~commissioner~~] may not pay a  
2 single aggrieved party more than \$10,000.

3           SECTION 26.054. Section 1802.208, Occupations Code, is  
4 amended to read as follows:

5           Sec. 1802.208. SUBROGATION. If the executive director  
6 [~~commissioner~~] pays a claim against an auctioneer, the department  
7 is subrogated to all rights of the aggrieved party against the  
8 auctioneer to the extent of the amount paid to the aggrieved party.

9           SECTION 26.055. Subsection (b), Section 1901.051,  
10 Occupations Code, is amended to read as follows:

11           (b) The executive director [~~commissioner~~] shall issue  
12 licenses to applicants who qualify.

13           SECTION 26.056. Section 1901.151, Occupations Code, is  
14 amended to read as follows:

15           Sec. 1901.151. LICENSE REQUIRED. A person may not act or  
16 offer to act as a driller unless the person holds a license issued  
17 by the executive director [~~commissioner~~] under this chapter and  
18 rules adopted under this chapter.

19           SECTION 26.057. Section 1901.402, Occupations Code, is  
20 amended to read as follows:

21           Sec. 1901.402. INJUNCTION AND OTHER ENFORCEMENT  
22 PROVISIONS. (a) The executive director [~~commissioner~~] may bring  
23 an action to enjoin a person from violating this chapter.

24           (b) The executive director [~~commissioner~~] may enforce by  
25 injunction or other appropriate remedy in a court any rule,  
26 decision, determination, or order adopted or entered under this  
27 chapter.

1 SECTION 26.058. Section 1901.403, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1901.403. VENUE. The executive director  
4 [~~commissioner~~] may bring an action in:

- 5 (1) Travis County; or
- 6 (2) the county in which:
  - 7 (A) the offending activity occurred; or
  - 8 (B) the person engaging in the activity resides.

9 SECTION 26.059. Subsection (b), Section 1901.404,  
10 Occupations Code, is amended to read as follows:

11 (b) At the request of the executive director  
12 [~~commissioner~~], the attorney general shall bring an action in the  
13 name of the state for injunctive relief, to recover a civil penalty,  
14 or for both injunctive relief and a civil penalty, as authorized by  
15 this subchapter.

16 SECTION 26.060. Section 1902.151, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1902.151. LICENSE REQUIRED. A person may not act or  
19 offer to act as an installer unless the person holds a license  
20 issued by the executive director [~~commissioner~~] under rules adopted  
21 under this chapter.

22 SECTION 26.061. Section 1902.402, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT  
25 PROVISIONS. (a) The executive director [~~commissioner~~] may bring  
26 an action to enjoin a person from violating this chapter.

27 (b) The executive director [~~commissioner~~] may enforce by

1 injunction or other appropriate remedy in a court any rule,  
2 decision, determination, or order adopted or entered under this  
3 chapter.

4 SECTION 26.062. Section 1902.403, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1902.403. VENUE. The executive director  
7 [~~commissioner~~] may bring an action in:

8 (1) Travis County; or

9 (2) the county in which:

10 (A) the offending activity occurred; or

11 (B) the person engaging in the activity resides.

12 SECTION 26.063. Subsection (b), Section 1902.404,  
13 Occupations Code, is amended to read as follows:

14 (b) At the request of the executive director  
15 [~~commissioner~~], the attorney general shall bring an action in the  
16 name of the state for injunctive relief, to recover a civil penalty,  
17 or for both injunctive relief and a civil penalty, as authorized by  
18 this subchapter.

19 SECTION 26.064. Section 2052.053, Occupations Code, is  
20 amended to read as follows:

21 Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The  
22 executive director [~~commissioner~~] shall investigate allegations of  
23 activity that may violate this chapter.

24 (b) The executive director [~~commissioner~~] may enter, at a  
25 reasonable time, a place of business or an establishment in which  
26 activity alleged to violate this chapter may occur. The executive  
27 director [~~commissioner~~] is not required to give advance notice

1 before entering.

2 SECTION 26.065. Section 2052.102, Occupations Code, is  
3 amended to read as follows:

4 Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION  
5 REQUIREMENTS. (a) An applicant for a boxing promoter's license  
6 under this chapter must apply on a form furnished by the executive  
7 director [~~commissioner~~].

8 (b) An application must be accompanied by:

9 (1) a license fee in an amount set by the commission;  
10 and

11 (2) a surety bond:

12 (A) subject to approval by the executive director  
13 [~~commissioner~~]; and

14 (B) conditioned on the applicant's payment of the  
15 tax imposed under Section 2052.151.

16 (c) The executive director [~~commissioner~~] shall establish  
17 the amount of the surety bond required under Subsection (b). The  
18 bond amount may not be less than \$300.

19 SECTION 26.066. Subsection (a), Section 2052.108,  
20 Occupations Code, is amended to read as follows:

21 (a) An application for a license under Section 2052.107 must  
22 be made on a form furnished by the executive director  
23 [~~commissioner~~].

24 SECTION 26.067. Section 2052.111, Occupations Code, is  
25 amended to read as follows:

26 Sec. 2052.111. DENIAL OF APPLICATION. The executive  
27 director [~~commissioner~~] may deny an application for a license if:



1           (1) the applicant does not meet the qualifications for  
2 the license; or

3           (2) after conducting an investigation and a hearing,  
4 the executive director [~~commissioner~~] determines that the  
5 applicant has violated this chapter or a rule adopted under this  
6 chapter.

7           SECTION 26.068. Subsection (b), Section 2052.203,  
8 Occupations Code, is amended to read as follows:

9           (b) The elimination tournament boxing promoter of a local,  
10 regional, or championship elimination tournament is not required to  
11 require that each elimination tournament contestant wear headgear  
12 approved by the department if the promoter under department rules  
13 notifies the executive director [~~commissioner~~] of the decision not  
14 to use the approved headgear.

15           SECTION 26.069. Section 2052.308, Occupations Code, is  
16 amended to read as follows:

17           Sec. 2052.308. APPEAL. (a) The petitioner or executive  
18 director [~~commissioner~~] may appeal a final judgment of a court  
19 conducting a review under this subchapter in the same manner as a  
20 civil action.

21           (b) The executive director [~~commissioner~~] is not required  
22 to file an appeal bond.

23           SECTION 26.070. Subsection (a), Section 2501.053,  
24 Occupations Code, is amended to read as follows:

25           (a) Not later than the 30th day before the date a personnel  
26 service begins operating in this state, the owner of the service  
27 must file notice with the executive director [~~commissioner~~].

1 SECTION 26.071. Subsection (a), Section 2501.055,  
2 Occupations Code, is amended to read as follows:

3 (a) On receipt of a notice filed under Section 2501.053, the  
4 executive director [~~commissioner~~] shall issue to the owner a  
5 certificate of authority to do business as a personnel service not  
6 later than the 15th day after the date the notice is filed if the  
7 owner:

8 (1) pays the filing fee required for the certificate;  
9 and

10 (2) complies with the requirements of Section  
11 2501.054.

12 SECTION 26.072. Section 2501.057, Occupations Code, is  
13 amended to read as follows:

14 Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive  
15 director [~~commissioner~~] shall issue a renewal of a certificate of  
16 authority on the receipt of:

17 (1) a renewal notice from the owner that contains the  
18 information required by Section 2501.053;

19 (2) a renewal fee; and

20 (3) security that complies with Section 2501.054.

21 SECTION 26.073. The heading to Subchapter D, Chapter 2501,  
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER D. ENFORCEMENT [~~BY COMMISSIONER~~]

24 SECTION 26.074. Section 2501.151, Occupations Code, is  
25 amended to read as follows:

26 Sec. 2501.151. ENFORCEMENT. (a) The executive director  
27 [~~commissioner~~] shall enforce Section 2501.102 and may investigate a

1 personnel service as necessary to enforce that section.

2 (b) The attorney general shall assist the executive  
3 director [~~commissioner~~] on request.

4 SECTION 26.075. Subsection (a), Section 2501.253,  
5 Occupations Code, is amended to read as follows:

6 (a) In addition to the amount awarded to a complainant under  
7 Section 2501.154(b), the executive director [~~commissioner~~] may  
8 impose on the personnel service an administrative penalty equal to  
9 two times the amount awarded under that subsection. A penalty  
10 collected under this section shall be deposited in the state  
11 treasury.

12 SECTION 26.076. Subsections (a) and (b), Section 2502.052,  
13 Occupations Code, are amended to read as follows:

14 (a) To obtain a certificate of authority, an owner must:

15 (1) file with the executive director [~~commissioner~~] a  
16 sworn application accompanied by the required application fee; and

17 (2) file with the department security that complies  
18 with Section 2502.053.

19 (b) The application must be in the form prescribed by the  
20 executive director [~~commissioner~~] and include:

21 (1) the address of the principal location of the  
22 career counseling service;

23 (2) the assumed name, if any, under which the career  
24 counseling service will operate;

25 (3) the name and address of each owner; and

26 (4) a statement that the owner has read and is familiar  
27 with this chapter.

1 SECTION 26.077. Subsection (a), Section 2502.053,  
2 Occupations Code, is amended to read as follows:

3 (a) Before the executive director [~~commissioner~~] may issue  
4 a certificate of authority to an owner, the owner must file with the  
5 department a bond in the amount of \$10,000 that is:

6 (1) executed by a surety company authorized to do  
7 business in this state;

8 (2) payable to the state; and

9 (3) conditioned on the faithful performance of the  
10 owner's obligations under this chapter.

11 SECTION 26.078. Subsections (a) and (b), Section 2502.054,  
12 Occupations Code, are amended to read as follows:

13 (a) The executive director [~~commissioner~~] shall issue a  
14 certificate of authority to do business as a career counseling  
15 service to an applicant who meets the requirements of this  
16 subchapter.

17 (b) The executive director [~~commissioner~~] shall process a  
18 certificate application not later than the 15th day after the date  
19 the application is filed.

20 SECTION 26.079. Section 2502.251, Occupations Code, is  
21 amended to read as follows:

22 Sec. 2502.251. ENFORCEMENT. (a) The executive director  
23 [~~commissioner~~] shall enforce this chapter and may investigate a  
24 career counseling service as necessary.

25 (b) The attorney general shall assist the executive  
26 director [~~commissioner~~] on request.

27 SECTION 26.080. Section 2502.301, Occupations Code, is

1 amended to read as follows:

2       Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the  
3 amount awarded to a complainant under Section 2502.254(b), the  
4 executive director [~~commissioner~~] may impose on the career  
5 counseling service an administrative penalty equal to two times the  
6 amount awarded under that subsection. A penalty collected under  
7 this section shall be deposited in the state treasury.

8       SECTION 26.081. Section 7, Article 9035, Revised Statutes,  
9 is amended to read as follows:

10       Sec. 7. FINANCIAL SECURITY REQUIREMENTS. (a) To ensure  
11 the adequate performance of a warrantor's obligations to a  
12 consumer, each warrantor shall comply with financial security  
13 requirements by:

14           (1) insuring its vehicle protection products under a  
15 reimbursement insurance policy issued by an insurer authorized to  
16 engage in the business of insurance in this state or under a surplus  
17 lines insurance policy issued by an insurer eligible to place  
18 coverage in this state as regulated under Chapter 981 [~~Article~~  
19 ~~1.14-2~~], Insurance Code; or

20           (2) providing any other form of comparable financial  
21 security approved by the executive director [~~commissioner~~].

22       (b) The department may not require any other financial  
23 security requirements or financial standards for warrantors.

24       (c) Vehicle protection services must abide by the financial  
25 responsibility requirements provided by Chapter 686,  
26 Transportation Code. The department may coordinate with the Texas  
27 Department of Insurance to assure consistency with the standard

1 proof of motor vehicle liability insurance form prescribed by  
2 Section 601.081, Transportation Code.

3 SECTION 26.082. Section 1.14, Chapter 376, Acts of the 77th  
4 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
5 Civil Statutes), is amended to read as follows:

6 Sec. 1.14. PERSONNEL. The executive director  
7 [~~commissioner~~] may, as provided by the General Appropriations Act,  
8 appoint and fix the compensation of any personnel, including  
9 specialists and consultants, necessary to perform duties and  
10 functions under this article.

11 SECTION 26.083. Subsection (e), Section 1.41, Chapter 376,  
12 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
13 Vernon's Texas Civil Statutes), is amended to read as follows:

14 (e) On written request of at least 25 qualified voters  
15 residing in the target area or operational area mentioned in the  
16 notice requesting an election accompanied by unsigned petitions,  
17 the county clerk of each county within the target area or  
18 operational area shall certify and mark for identification  
19 petitions for circulation. An application for a petition seeking  
20 an election to disapprove the issuance of a permit must be headed:  
21 "Application for Election to Disapprove a Weather Modification  
22 Permit." The application shall contain a statement just ahead of  
23 the signatures of the applicants stating the following: "It is the  
24 hope, purpose, and intent of the applicants whose signatures appear  
25 on this application to see disapproved the issuance of a permit for  
26 weather modification, including hail suppression." An application  
27 for a petition seeking an election to approve the issuance of a

1 permit shall be headed: "Application for Election to Approve a  
2 Weather Modification Permit." The application shall contain a  
3 statement just ahead of the signatures of the applicants as  
4 follows: "It is the hope, purpose, and intent of the applicants  
5 whose signatures appear on this petition to see approved the  
6 issuance of a permit for weather modification, including hail  
7 suppression." On the return to the county clerks of petitions  
8 signed by at least 10 percent of the qualified voters residing in  
9 each county within the target area or operational area in the notice  
10 requesting an election, the commissioners court of each county  
11 shall call and hold an election. Notice under Chapter 111, Local  
12 Government Code, of the commissioners court meeting to call and  
13 hold the election is not required. The date of the election shall  
14 be determined by the commissioners court in accordance with this  
15 section, notwithstanding Sections 41.004 and 41.0041, Election  
16 Code. The petition must be filed with the clerk of each county  
17 within 30 days immediately following the first publication of  
18 notice. The election must be held within 45 days after the date the  
19 petition is received to determine whether or not the qualified  
20 voters in the target area or operational area approve the issuance  
21 of the permit. Immediately on calling the election, the clerk of  
22 each county within the target area or operational area shall notify  
23 the executive director [~~commissioner~~] of the date of the election.  
24 Except as otherwise provided in this article, elections must be  
25 held in accordance with the Election Code.

26 ARTICLE 27. GENERAL TRANSITION; EFFECTIVE DATE

27 SECTION 27.001. The changes in law made by this Act

1 regarding the powers and duties of the executive director of the  
2 Texas Department of Licensing and Regulation that are transferred  
3 to the Texas Commission of Licensing and Regulation do not affect  
4 the status of a complaint, investigation, or other proceeding. A  
5 rule or form adopted by the executive director before the effective  
6 date of this Act remains in effect as a rule or form of the  
7 department until amended or changed.

8 SECTION 27.002. Except as otherwise provided in this Act,  
9 this Act takes effect September 1, 2003.



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 279 passed the Senate on May 5, 2003, by a viva-voce vote; May 21, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 24, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 279 passed the House, with amendments, on May 16, 2003, by a non-record vote; May 24, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor